

SECOND REGULAR SESSION

# SENATE BILL NO. 813

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time January 21, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4463S.04I

## AN ACT

To repeal sections 99.805, 99.845, 135.535, 135.950, 135.967, 178.760, 178.762, 178.892, 178.894, 620.1878 and 620.1881, RSMo, and to enact in lieu thereof eleven new sections relating to the development of Missouri businesses.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 99.805, 99.845, 135.535, 135.950, 135.967, 178.760, 178.762, 178.892, 178.894, 620.1878 and 620.1881, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 99.805, 99.845, 135.535, 135.950, 135.967, 178.760, 178.762, 178.892, 178.894, 620.1878 and 620.1881, to read as follows:

99.805. As used in sections 99.800 to 99.865, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 or more. Such an area is not yet a blighted area but is detrimental to the public  
17 health, safety, morals, or welfare and may become a blighted area because of any  
18 one or more of the following factors: dilapidation; obsolescence; deterioration;  
19 illegal use of individual structures; presence of structures below minimum code  
20 standards; abandonment; excessive vacancies; overcrowding of structures and  
21 community facilities; lack of ventilation, light or sanitary facilities; inadequate  
22 utilities; excessive land coverage; deleterious land use or layout; depreciation of  
23 physical maintenance; and lack of community planning. A conservation area  
24 shall meet at least three of the factors provided in this subdivision for projects  
25 approved on or after December 23, 1997;

26 (4) "Economic activity taxes", the total additional revenue from taxes  
27 which are imposed by a municipality and other taxing districts, and which are  
28 generated by economic activities within a redevelopment area over the amount  
29 of such taxes generated by economic activities within such redevelopment area  
30 in the calendar year prior to the adoption of the ordinance designating such a  
31 redevelopment area, while tax increment financing remains in effect, but  
32 excluding personal property taxes, taxes imposed on sales or charges for sleeping  
33 rooms paid by transient guests of hotels and motels, licenses, fees or special  
34 assessments. For redevelopment projects or redevelopment plans approved after  
35 December 23, 1997, if a retail establishment relocates within one year from one  
36 facility to another facility within the same county and the governing body of the  
37 municipality finds that the relocation is a direct beneficiary of tax increment  
38 financing, then for purposes of this definition, the economic activity taxes  
39 generated by the retail establishment shall equal the total additional revenues  
40 from economic activity taxes which are imposed by a municipality or other taxing  
41 district over the amount of economic activity taxes generated by the retail  
42 establishment in the calendar year prior to its relocation to the redevelopment  
43 area;

44 (5) "Economic development area", any area or portion of an area located  
45 within the territorial limits of a municipality, which does not meet the  
46 requirements of subdivisions (1) and (3) of this section, and in which the  
47 governing body of the municipality finds that redevelopment will not be solely  
48 used for development of commercial businesses which unfairly compete in the  
49 local economy and is in the public interest because it will:

50 (a) Discourage commerce, industry or manufacturing from moving their  
51 operations to another state; or

52 (b) Result in increased employment in the municipality; or

53 (c) Result in preservation or enhancement of the tax base of the  
54 municipality;

55 (6) "Gambling establishment", an excursion gambling boat as defined in  
56 section 313.800, RSMo, and any related business facility including any real  
57 property improvements which are directly and solely related to such business  
58 facility, whose sole purpose is to provide goods or services to an excursion  
59 gambling boat and whose majority ownership interest is held by a person licensed  
60 to conduct gambling games on an excursion gambling boat or licensed to operate  
61 an excursion gambling boat as provided in sections 313.800 to 313.850,  
62 RSMo. This subdivision shall be applicable only to a redevelopment area  
63 designated by ordinance adopted after December 23, 1997;

64 (7) "Greenfield area", any vacant, unimproved, or agricultural property  
65 that is located wholly outside the incorporated limits of a city, town, or village,  
66 or that is substantially surrounded by contiguous properties with agricultural  
67 zoning classifications or uses unless said property was annexed into the  
68 incorporated limits of a city, town, or village ten years prior to the adoption of the  
69 ordinance approving the redevelopment plan for such greenfield area;

70 (8) **"Missouri business", any business with a physical presence in**  
71 **this state, with employees who routinely perform job duties within this**  
72 **state;**

73 [(8)] (9) "Municipality", a city, village, or incorporated town or any  
74 county of this state. For redevelopment areas or projects approved on or after  
75 December 23, 1997, "municipality" applies only to cities, villages, incorporated  
76 towns or counties established for at least one year prior to such date;

77 (10) **"Net new jobs", an increase to the employment base, in this**  
78 **state, of a company counting all of such company's locations within the**  
79 **state;**

80 [(9)] (11) "Obligations", bonds, loans, debentures, notes, special  
81 certificates, or other evidences of indebtedness issued by a municipality to carry  
82 out a redevelopment project or to refund outstanding obligations;

83 [(10)] (12) "Ordinance", an ordinance enacted by the governing body of  
84 a city, town, or village or a county or an order of the governing body of a county  
85 whose governing body is not authorized to enact ordinances;

86 [(11)] (13) "Payment in lieu of taxes", those estimated revenues from real  
87 property in the area selected for a redevelopment project, which revenues

88 according to the redevelopment project or plan are to be used for a private use,  
89 which taxing districts would have received had a municipality not adopted tax  
90 increment allocation financing, and which would result from levies made after the  
91 time of the adoption of tax increment allocation financing during the time the  
92 current equalized value of real property in the area selected for the  
93 redevelopment project exceeds the total initial equalized value of real property  
94 in such area until the designation is terminated pursuant to subsection 2 of  
95 section 99.850;

96 [(12)] (14) "Redevelopment area", an area designated by a municipality,  
97 in respect to which the municipality has made a finding that there exist  
98 conditions which cause the area to be classified as a blighted area, a conservation  
99 area, an economic development area, an enterprise zone pursuant to sections  
100 135.200 to 135.256, RSMo, or a combination thereof, which area includes only  
101 those parcels of real property directly and substantially benefited by the proposed  
102 redevelopment project;

103 [(13)] (15) "Redevelopment plan", the comprehensive program of a  
104 municipality for redevelopment intended by the payment of redevelopment costs  
105 to reduce or eliminate those conditions, the existence of which qualified the  
106 redevelopment area as a blighted area, conservation area, economic development  
107 area, or combination thereof, and to thereby enhance the tax bases of the taxing  
108 districts which extend into the redevelopment area. Each redevelopment plan  
109 shall conform to the requirements of section 99.810;

110 [(14)] (16) "Redevelopment project", any development project within a  
111 redevelopment area in furtherance of the objectives of the redevelopment plan;  
112 any such redevelopment project shall include a legal description of the area  
113 selected for the redevelopment project;

114 [(15)] (17) "Redevelopment project costs" include the sum total of all  
115 reasonable or necessary costs incurred or estimated to be incurred, and any such  
116 costs incidental to a redevelopment plan or redevelopment project, as  
117 applicable. Such costs include, but are not limited to, the following:

118 (a) Costs of studies, surveys, plans, and specifications;

119 (b) Professional service costs, including, but not limited to, architectural,  
120 engineering, legal, marketing, financial, planning or special services. Except the  
121 reasonable costs incurred by the commission established in section 99.820 for the  
122 administration of sections 99.800 to 99.865, such costs shall be allowed only as  
123 an initial expense which, to be recoverable, shall be included in the costs of a

124 redevelopment plan or project;

125 (c) Property assembly costs, including, but not limited to, acquisition of  
126 land and other property, real or personal, or rights or interests therein,  
127 demolition of buildings, and the clearing and grading of land;

128 (d) Costs of rehabilitation, reconstruction, or repair or remodeling of  
129 existing buildings and fixtures;

130 (e) Initial costs for an economic development area;

131 (f) Costs of construction of public works or improvements;

132 (g) Financing costs, including, but not limited to, all necessary and  
133 incidental expenses related to the issuance of obligations, and which may include  
134 payment of interest on any obligations issued pursuant to sections 99.800 to  
135 99.865 accruing during the estimated period of construction of any redevelopment  
136 project for which such obligations are issued and for not more than eighteen  
137 months thereafter, and including reasonable reserves related thereto;

138 (h) All or a portion of a taxing district's capital costs resulting from the  
139 redevelopment project necessarily incurred or to be incurred in furtherance of the  
140 objectives of the redevelopment plan and project, to the extent the municipality  
141 by written agreement accepts and approves such costs;

142 (i) Relocation costs to the extent that a municipality determines that  
143 relocation costs shall be paid or are required to be paid by federal or state law;

144 (j) Payments in lieu of taxes;

145 [(16)] (18) "Special allocation fund", the fund of a municipality or its  
146 commission which contains at least two separate segregated accounts for each  
147 redevelopment plan, maintained by the treasurer of the municipality or the  
148 treasurer of the commission into which payments in lieu of taxes are deposited  
149 in one account, and economic activity taxes and other revenues are deposited in  
150 the other account;

151 [(17)] (19) "Taxing districts", any political subdivision of this state  
152 having the power to levy taxes;

153 [(18)] (20) "Taxing districts' capital costs", those costs of taxing districts  
154 for capital improvements that are found by the municipal governing bodies to be  
155 necessary and to directly result from the redevelopment project; and

156 [(19)] (21) "Vacant land", any parcel or combination of parcels of real  
157 property not used for industrial, commercial, or residential buildings.

99.845. 1. A municipality, either at the time a redevelopment project is  
2 approved or, in the event a municipality has undertaken acts establishing a

3 redevelopment plan and redevelopment project and has designated a  
4 redevelopment area after the passage and approval of sections 99.800 to 99.865  
5 but prior to August 13, 1982, which acts are in conformance with the procedures  
6 of sections 99.800 to 99.865, may adopt tax increment allocation financing by  
7 passing an ordinance providing that after the total equalized assessed valuation  
8 of the taxable real property in a redevelopment project exceeds the certified total  
9 initial equalized assessed valuation of the taxable real property in the  
10 redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if  
11 any, arising from the levies upon taxable real property in such redevelopment  
12 project by taxing districts and tax rates determined in the manner provided in  
13 subsection 2 of section 99.855 each year after the effective date of the ordinance  
14 until redevelopment costs have been paid shall be divided as follows:

15 (1) That portion of taxes, penalties and interest levied upon each taxable  
16 lot, block, tract, or parcel of real property which is attributable to the initial  
17 equalized assessed value of each such taxable lot, block, tract, or parcel of real  
18 property in the area selected for the redevelopment project shall be allocated to  
19 and, when collected, shall be paid by the county collector to the respective  
20 affected taxing districts in the manner required by law in the absence of the  
21 adoption of tax increment allocation financing;

22 (2) (a) Payments in lieu of taxes attributable to the increase in the  
23 current equalized assessed valuation of each taxable lot, block, tract, or parcel of  
24 real property in the area selected for the redevelopment project and any  
25 applicable penalty and interest over and above the initial equalized assessed  
26 value of each such unit of property in the area selected for the redevelopment  
27 project shall be allocated to and, when collected, shall be paid to the municipal  
28 treasurer who shall deposit such payment in lieu of taxes into a special fund  
29 called the "Special Allocation Fund" of the municipality for the purpose of paying  
30 redevelopment costs and obligations incurred in the payment thereof. Payments  
31 in lieu of taxes which are due and owing shall constitute a lien against the real  
32 estate of the redevelopment project from which they are derived and shall be  
33 collected in the same manner as the real property tax, including the assessment  
34 of penalties and interest where applicable. The municipality may, in the  
35 ordinance, pledge the funds in the special allocation fund for the payment of such  
36 costs and obligations and provide for the collection of payments in lieu of taxes,  
37 the lien of which may be foreclosed in the same manner as a special assessment  
38 lien as provided in section 88.861, RSMo. No part of the current equalized

39 assessed valuation of each lot, block, tract, or parcel of property in the area  
40 selected for the redevelopment project attributable to any increase above the total  
41 initial equalized assessed value of such properties shall be used in calculating the  
42 general state school aid formula provided for in section 163.031, RSMo, until such  
43 time as all redevelopment costs have been paid as provided for in this section and  
44 section 99.850;

45 (b) Notwithstanding any provisions of this section to the contrary, for  
46 purposes of determining the limitation on indebtedness of local government  
47 pursuant to article VI, section 26(b) of the Missouri Constitution, the current  
48 equalized assessed value of the property in an area selected for redevelopment  
49 attributable to the increase above the total initial equalized assessed valuation  
50 shall be included in the value of taxable tangible property as shown on the last  
51 completed assessment for state or county purposes;

52 (c) The county assessor shall include the current assessed value of all  
53 property within the taxing district in the aggregate valuation of assessed property  
54 entered upon the assessor's book and verified pursuant to section 137.245, RSMo,  
55 and such value shall be utilized for the purpose of the debt limitation on local  
56 government pursuant to article VI, section 26(b) of the Missouri Constitution;

57 (3) For purposes of this section, "levies upon taxable real property in such  
58 redevelopment project by taxing districts" shall not include the blind pension fund  
59 tax levied under the authority of article III, section 38(b) of the Missouri  
60 Constitution, or the merchants' and manufacturers' inventory replacement tax  
61 levied under the authority of subsection 2 of section 6 of article X of the Missouri  
62 Constitution, except in redevelopment project areas in which tax increment  
63 financing has been adopted by ordinance pursuant to a plan approved by vote of  
64 the governing body of the municipality taken after August 13, 1982, and before  
65 January 1, 1998.

66 2. In addition to the payments in lieu of taxes described in subdivision (2)  
67 of subsection 1 of this section, for redevelopment plans and projects adopted or  
68 redevelopment projects approved by ordinance after July 12, 1990, and prior to  
69 August 31, 1991, fifty percent of the total additional revenue from taxes, penalties  
70 and interest imposed by the municipality, or other taxing districts, which are  
71 generated by economic activities within the area of the redevelopment project over  
72 the amount of such taxes generated by economic activities within the area of the  
73 redevelopment project in the calendar year prior to the adoption of the  
74 redevelopment project by ordinance, while tax increment financing remains in

75 effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by  
76 transient guests of hotels and motels, taxes levied pursuant to section 70.500,  
77 RSMo, licenses, fees or special assessments other than payments in lieu of taxes  
78 and any penalty and interest thereon, or, effective January 1, 1998, taxes levied  
79 pursuant to section 94.660, RSMo, for the purpose of public transportation, shall  
80 be allocated to, and paid by the local political subdivision collecting officer to the  
81 treasurer or other designated financial officer of the municipality, who shall  
82 deposit such funds in a separate segregated account within the special allocation  
83 fund. Any provision of an agreement, contract or covenant entered into prior to  
84 July 12, 1990, between a municipality and any other political subdivision which  
85 provides for an appropriation of other municipal revenues to the special allocation  
86 fund shall be and remain enforceable.

87           3. In addition to the payments in lieu of taxes described in subdivision (2)  
88 of subsection 1 of this section, for redevelopment plans and projects adopted or  
89 redevelopment projects approved by ordinance after August 31, 1991, fifty percent  
90 of the total additional revenue from taxes, penalties and interest which are  
91 imposed by the municipality or other taxing districts, and which are generated  
92 by economic activities within the area of the redevelopment project over the  
93 amount of such taxes generated by economic activities within the area of the  
94 redevelopment project in the calendar year prior to the adoption of the  
95 redevelopment project by ordinance, while tax increment financing remains in  
96 effect, but excluding personal property taxes, taxes imposed on sales or charges  
97 for sleeping rooms paid by transient guests of hotels and motels, taxes levied  
98 pursuant to section 70.500, RSMo, taxes levied for the purpose of public  
99 transportation pursuant to section 94.660, RSMo, licenses, fees or special  
100 assessments other than payments in lieu of taxes and penalties and interest  
101 thereon, or any sales tax imposed by a county with a charter form of government  
102 and with more than six hundred thousand but fewer than seven hundred  
103 thousand inhabitants, for the purpose of sports stadium improvement, shall be  
104 allocated to, and paid by the local political subdivision collecting officer to the  
105 treasurer or other designated financial officer of the municipality, who shall  
106 deposit such funds in a separate segregated account within the special allocation  
107 fund.

108           4. Beginning January 1, 1998, for redevelopment plans and projects  
109 adopted or redevelopment projects approved by ordinance and which have  
110 complied with subsections 4 to 12 of this section, in addition to the payments in

111 lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of  
112 this section, up to fifty percent of the new state revenues, as defined in subsection  
113 8 of this section, estimated for the businesses within the project area and  
114 identified by the municipality in the application required by subsection 10 of this  
115 section, over and above the amount of such taxes reported by businesses within  
116 the project area as identified by the municipality in their application prior to the  
117 approval of the redevelopment project by ordinance, while tax increment  
118 financing remains in effect, may be available for appropriation by the general  
119 assembly as provided in subsection 10 of this section to the department of  
120 economic development supplemental tax increment financing fund, from the  
121 general revenue fund, for distribution to the treasurer or other designated  
122 financial officer of the municipality with approved plans or projects.

123         5. The treasurer or other designated financial officer of the municipality  
124 with approved plans or projects shall deposit such funds in a separate segregated  
125 account within the special allocation fund established pursuant to section 99.805.

126         6. No transfer from the general revenue fund to the Missouri  
127 supplemental tax increment financing fund shall be made unless an appropriation  
128 is made from the general revenue fund for that purpose. No municipality shall  
129 commit any state revenues prior to an appropriation being made for that  
130 project. For all redevelopment plans or projects adopted or approved after  
131 December 23, 1997, appropriations from the new state revenues shall not be  
132 distributed from the Missouri supplemental tax increment financing fund into the  
133 special allocation fund unless the municipality's redevelopment plan ensures that  
134 one hundred percent of payments in lieu of taxes and fifty percent of economic  
135 activity taxes generated by the project shall be used for eligible redevelopment  
136 project costs while tax increment financing remains in effect. This account shall  
137 be separate from the account into which payments in lieu of taxes are deposited,  
138 and separate from the account into which economic activity taxes are deposited.

139         7. In order for the redevelopment plan or project to be eligible to receive  
140 the revenue described in subsection 4 of this section, the municipality shall  
141 comply with the requirements of subsection 10 of this section prior to the time the  
142 project or plan is adopted or approved by ordinance. The director of the  
143 department of economic development and the commissioner of the office of  
144 administration may waive the requirement that the municipality's application be  
145 submitted prior to the redevelopment plan's or project's adoption or the  
146 redevelopment plan's or project's approval by ordinance.

147 8. For purposes of this section, "new state revenues" means:

148 (1) The incremental increase in the general revenue portion of state sales  
149 tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes  
150 that are constitutionally dedicated, taxes deposited to the school district trust  
151 fund in accordance with section 144.701, RSMo, sales and use taxes on motor  
152 vehicles, trailers, boats and outboard motors and future sales taxes earmarked  
153 by law. In no event shall the incremental increase include any amounts  
154 attributable to retail sales unless the municipality or authority has proven to the  
155 Missouri development finance board and the department of economic development  
156 and such entities have made a finding that the sales tax increment attributable  
157 to retail sales is from new sources which did not exist in the state during the  
158 baseline year. The incremental increase in the general revenue portion of state  
159 sales tax revenues for an existing or relocated facility shall be the amount that  
160 current state sales tax revenue exceeds the state sales tax revenue in the base  
161 year as stated in the redevelopment plan as provided in subsection 10 of this  
162 section; or

163 (2) The state income tax withheld on behalf of new employees by the  
164 employer pursuant to section 143.221, RSMo, at the business located within the  
165 project as identified by the municipality. The state income tax withholding  
166 allowed by this section shall be the municipality's estimate of the amount of state  
167 income tax withheld by the employer within the redevelopment area for new  
168 employees who fill new jobs directly created by the tax increment financing  
169 project.

170 9. Subsection 4 of this section shall apply only to blighted areas located  
171 in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted  
172 areas located in federal empowerment zones, or to blighted areas located in  
173 central business districts or urban core areas of cities which districts or urban  
174 core areas at the time of approval of the project by ordinance, provided that the  
175 enterprise zones, federal empowerment zones or blighted areas contained one or  
176 more buildings at least fifty years old; and

177 (1) Suffered from generally declining population or property taxes over the  
178 twenty-year period immediately preceding the area's designation as a project area  
179 by ordinance; or

180 (2) Was a historic hotel located in a county of the first classification  
181 without a charter form of government with a population according to the most  
182 recent federal decennial census in excess of one hundred fifty thousand and

183 containing a portion of a city with a population according to the most recent  
184 federal decennial census in excess of three hundred fifty thousand.

185         10. The initial appropriation of up to fifty percent of the new state  
186 revenues authorized pursuant to subsections 4 and 5 of this section shall not be  
187 made to or distributed by the department of economic development to a  
188 municipality until all of the following conditions have been satisfied:

189         (1) The director of the department of economic development or his or her  
190 designee and the commissioner of the office of administration or his or her  
191 designee have approved a tax increment financing application made by the  
192 municipality for the appropriation of the new state revenues. The municipality  
193 shall include in the application the following items in addition to the items in  
194 section 99.810:

195         (a) The tax increment financing district or redevelopment area, including  
196 the businesses identified within the redevelopment area;

197         (b) The base year of state sales tax revenues or the base year of state  
198 income tax withheld on behalf of existing employees, reported by existing  
199 businesses within the project area prior to approval of the redevelopment project;

200         (c) The estimate of the incremental increase in the general revenue  
201 portion of state sales tax revenue or the estimate for the state income tax  
202 withheld by the employer on behalf of new employees expected to fill new jobs  
203 created within the redevelopment area after redevelopment;

204         (d) The official statement of any bond issue pursuant to this subsection  
205 after December 23, 1997;

206         (e) An affidavit that is signed by the developer or developers attesting  
207 that the provisions of subdivision (1) of section 99.810 have been met and  
208 specifying that the redevelopment area would not be reasonably anticipated to be  
209 developed without the appropriation of the new state revenues;

210         (f) The cost-benefit analysis required by section 99.810 includes a study  
211 of the fiscal impact on the state of Missouri; and

212         (g) The statement of election between the use of the incremental increase  
213 of the general revenue portion of the state sales tax revenues or the state income  
214 tax withheld by employers on behalf of new employees who fill new jobs created  
215 in the redevelopment area;

216         (h) The name, street and mailing address, and phone number of the mayor  
217 or chief executive officer of the municipality;

218         (i) The street address of the development site;

- 219 (j) The three-digit North American Industry Classification System number  
220 or numbers characterizing the development project;
- 221 (k) The estimated development project costs;
- 222 (l) The anticipated sources of funds to pay such development project costs;
- 223 (m) Evidence of the commitments to finance such development project  
224 costs;
- 225 (n) The anticipated type and term of the sources of funds to pay such  
226 development project costs;
- 227 (o) The anticipated type and terms of the obligations to be issued;
- 228 (p) The most recent equalized assessed valuation of the property within  
229 the development project area;
- 230 (q) An estimate as to the equalized assessed valuation after the  
231 development project area is developed in accordance with a development plan;
- 232 (r) The general land uses to apply in the development area;
- 233 (s) The total number of individuals employed in the development area,  
234 broken down by full-time, part-time, and temporary positions;
- 235 (t) The total number of full-time equivalent positions in the development  
236 area;
- 237 (u) The current gross wages, state income tax withholdings, and federal  
238 income tax withholdings for individuals employed in the development area;
- 239 (v) The total number of individuals employed in this state by the  
240 corporate parent of any business benefiting from public expenditures in the  
241 development area, and all subsidiaries thereof, as of December thirty-first of the  
242 prior fiscal year, broken down by full-time, part-time, and temporary positions;
- 243 (w) The number of new jobs to be created by any business benefiting from  
244 public expenditures in the development area, broken down by full-time, part-time,  
245 and temporary positions;
- 246 (x) The average hourly wage to be paid to all current and new employees  
247 at the project site, broken down by full-time, part-time, and temporary positions;
- 248 (y) For project sites located in a metropolitan statistical area, as defined  
249 by the federal Office of Management and Budget, the average hourly wage paid  
250 to nonmanagerial employees in this state for the industries involved at the  
251 project, as established by the United States Bureau of Labor Statistics;
- 252 (z) For project sites located outside of metropolitan statistical areas, the  
253 average weekly wage paid to nonmanagerial employees in the county for  
254 industries involved at the project, as established by the United States

255 Department of Commerce;

256 (aa) A list of other community and economic benefits to result from the  
257 project;

258 (bb) A list of all development subsidies that any business benefiting from  
259 public expenditures in the development area has previously received for the  
260 project, and the name of any other granting body from which such subsidies are  
261 sought;

262 (cc) A list of all other public investments made or to be made by this state  
263 or units of local government to support infrastructure or other needs generated  
264 by the project for which the funding pursuant to this section is being sought;

265 (dd) A statement as to whether the development project may reduce  
266 employment at any other site, within or without the state, resulting from  
267 automation, merger, acquisition, corporate restructuring, relocation, or other  
268 business activity;

269 (ee) A statement as to whether or not the project involves the relocation  
270 of work from another address and if so, the number of jobs to be relocated and the  
271 address from which they are to be relocated;

272 (ff) A list of competing businesses in the county containing the  
273 development area and in each contiguous county;

274 (gg) A market study for the development area;

275 (hh) A certification by the chief officer of the applicant as to the accuracy  
276 of the development plan;

277 (2) The methodologies used in the application for determining the base  
278 year and determining the estimate of the incremental increase in the general  
279 revenue portion of the state sales tax revenues or the state income tax withheld  
280 by employers on behalf of new employees who fill new jobs created in the  
281 redevelopment area shall be approved by the director of the department of  
282 economic development or his or her designee and the commissioner of the office  
283 of administration or his or her designee. Upon approval of the application, the  
284 director of the department of economic development or his or her designee and  
285 the commissioner of the office of administration or his or her designee shall issue  
286 a certificate of approval. The department of economic development may request  
287 the appropriation following application approval;

288 (3) The appropriation shall be either a portion of the estimate of the  
289 incremental increase in the general revenue portion of state sales tax revenues  
290 in the redevelopment area or a portion of the estimate of the state income tax

291 withheld by the employer on behalf of new employees who fill new jobs created  
292 in the redevelopment area as indicated in the municipality's application,  
293 approved by the director of the department of economic development or his or her  
294 designee and the commissioner of the office of administration or his or her  
295 designee. At no time shall the annual amount of the new state revenues  
296 approved for disbursements from the Missouri supplemental tax increment  
297 financing fund exceed thirty-two million dollars;

298 (4) Redevelopment plans and projects receiving new state revenues shall  
299 have a duration of up to fifteen years, unless prior approval for a longer term is  
300 given by the director of the department of economic development or his or her  
301 designee and the commissioner of the office of administration or his or her  
302 designee; except that, in no case shall the duration exceed twenty-three years.

303 11. In addition to the areas authorized in subsection 9 of this section, the  
304 funding authorized pursuant to subsection 4 of this section shall also be available  
305 in a federally approved levee district, where construction of a levee begins after  
306 December 23, 1997, and which is contained within a county of the first  
307 classification without a charter form of government with a population between  
308 fifty thousand and one hundred thousand inhabitants which contains all or part  
309 of a city with a population in excess of four hundred thousand or more  
310 inhabitants.

311 12. There is hereby established within the state treasury a special fund  
312 to be known as the "Missouri Supplemental Tax Increment Financing Fund", to  
313 be administered by the department of economic development. The department  
314 shall annually distribute from the Missouri supplemental tax increment financing  
315 fund the amount of the new state revenues as appropriated as provided in the  
316 provisions of subsections 4 and 5 of this section if and only if the conditions of  
317 subsection 10 of this section are met. The fund shall also consist of any gifts,  
318 contributions, grants or bequests received from federal, private or other  
319 sources. Moneys in the Missouri supplemental tax increment financing fund shall  
320 be disbursed per project pursuant to state appropriations.

321 13. Redevelopment project costs may include, at the prerogative of the  
322 state, the portion of salaries and expenses of the department of economic  
323 development and the department of revenue reasonably allocable to each  
324 redevelopment project approved for disbursements from the Missouri  
325 supplemental tax increment financing fund for the ongoing administrative  
326 functions associated with such redevelopment project. Such amounts shall be

327 recovered from new state revenues deposited into the Missouri supplemental tax  
328 increment financing fund created under this section.

329       14. For redevelopment plans or projects approved by ordinance that result  
330 in net new jobs from the relocation of a national headquarters from another state  
331 to the area of the redevelopment project, the economic activity taxes and new  
332 state tax revenues shall not be based on a calculation of the incremental increase  
333 in taxes as compared to the base year or prior calendar year for such  
334 redevelopment project, rather the incremental increase shall be the amount of  
335 total taxes generated from the net new jobs brought in by the national  
336 headquarters from another state. In no event shall this subsection be construed  
337 to allow a redevelopment project to receive an appropriation in excess of up to  
338 fifty percent of the new state revenues.

339       **15. Provisions of subsection 4 of this section to the contrary**  
340 **notwithstanding, for redevelopment plans or projects approved by**  
341 **ordinance that result in net new jobs from a Missouri business**  
342 **relocation to, or expansion within, the area of the redevelopment**  
343 **project, the director of the department of economic development may,**  
344 **upon a finding of economic benefit to the state, increase the percentage**  
345 **of new state revenues, defined under subdivision (2) of subsection 8 of**  
346 **this section, available for appropriation under the provisions of**  
347 **subsection 4 of this section by an amount equal to:**

348       **(1) Up to two percent for redevelopment plans or projects**  
349 **involving businesses which have been Missouri businesses for a**  
350 **continuous period of at least five years prior to the adoption of such**  
351 **ordinance;**

352       **(2) Up to four percent for redevelopment plans or projects**  
353 **involving businesses which have been Missouri businesses for a**  
354 **continuous period of at least ten years prior to the adoption of such**  
355 **ordinance;**

356       **(3) Up to six percent for redevelopment plans or projects**  
357 **involving businesses which have been Missouri businesses for a**  
358 **continuous period of at least fifteen years prior to the adoption of such**  
359 **ordinance;**

360       **(4) Up to eight percent for redevelopment plans or projects**  
361 **involving businesses which have been Missouri businesses for a**  
362 **continuous period of at least twenty years prior to the adoption of such**  
363 **ordinance; or**

364           **(5) Up to ten percent for redevelopment plans or projects**  
365 **involving businesses which have been Missouri businesses for a**  
366 **continuous period of at least twenty-five years prior to the adoption of**  
367 **such ordinance.**

135.535. 1. A corporation, limited liability corporation, partnership or  
2 sole proprietorship, which moves its operations from outside Missouri or outside  
3 a distressed community into a distressed community, or which commences  
4 operations in a distressed community on or after January 1, 1999, and in either  
5 case has more than seventy-five percent of its employees at the facility in the  
6 distressed community, and which has fewer than one hundred employees for  
7 whom payroll taxes are paid, and which is a manufacturing, biomedical, medical  
8 devices, scientific research, animal research, computer software design or  
9 development, computer programming, including Internet, web hosting, and other  
10 information technology, wireless or wired or other telecommunications or a  
11 professional firm shall receive a forty percent credit against income taxes owed  
12 pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant  
13 to sections 143.191 to 143.265, RSMo, for each of the three years after such move,  
14 if approved by the department of economic development, which shall issue a  
15 certificate of eligibility if the department determines that the taxpayer is eligible  
16 for such credit. The maximum amount of credits per taxpayer set forth in this  
17 subsection shall not exceed one hundred twenty-five thousand dollars for each of  
18 the three years for which the credit is claimed. **In the case of a Missouri**  
19 **business, which is otherwise eligible for tax credits authorized under**  
20 **the provisions of this subsection, the director of the department of**  
21 **economic development may, upon a finding of economic benefit to the**  
22 **state, increase the percentage of credit against income taxes owed**  
23 **pursuant to chapter 143, 147, or 148, other than taxes withheld**  
24 **pursuant to sections 143.191 to 143.265, for each of the three years after**  
25 **such move by an amount not to exceed two percent for each continuous**  
26 **five year period such corporation, limited liability corporation,**  
27 **partnership, or sole proprietorship has been a Missouri business, up to**  
28 **a total increase of ten percent. The maximum amount of credits per**  
29 **Missouri business set forth in this subsection shall not exceed one**  
30 **hundred thirty-seven thousand five hundred dollars for each of the**  
31 **three years for which the credit is claimed.** The department of economic  
32 development, by means of rule or regulation promulgated pursuant to the

33 provisions of chapter 536, RSMo, shall assign appropriate North American  
34 Industry Classification System numbers to the companies which are eligible for  
35 the tax credits provided for in this section. Such three-year credits shall be  
36 awarded only one time to any company which moves its operations from outside  
37 of Missouri or outside of a distressed community into a distressed community or  
38 to a company which commences operations within a distressed community. A  
39 taxpayer shall file an application for certification of the tax credits for the first  
40 year in which credits are claimed and for each of the two succeeding taxable years  
41 for which credits are claimed.

42         2. Employees of such facilities physically working and earning wages for  
43 that work within a distressed community whose employers have been approved  
44 for tax credits pursuant to subsection 1 of this section by the department of  
45 economic development for whom payroll taxes are paid shall also be eligible to  
46 receive a tax credit against individual income tax, imposed pursuant to chapter  
47 143, RSMo, equal to one and one-half percent of their gross salary paid at such  
48 facility earned for each of the three years that the facility receives the tax credit  
49 provided by this section, so long as they were qualified employees of such  
50 entity. The employer shall calculate the amount of such credit and shall report  
51 the amount to the employee and the department of revenue.

52         3. A tax credit against income taxes owed pursuant to chapter 143, 147  
53 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to  
54 143.265, RSMo, in lieu of the credit against income taxes as provided in  
55 subsection 1 of this section, may be taken by such an entity in a distressed  
56 community in an amount of forty percent of the amount of funds expended for  
57 computer equipment and its maintenance, medical laboratories and equipment,  
58 research laboratory equipment, manufacturing equipment, fiber optic equipment,  
59 high speed telecommunications, wiring or software development expense up to a  
60 maximum of seventy-five thousand dollars in tax credits for such equipment or  
61 expense per year per entity and for each of three years after commencement in  
62 or moving operations into a distressed community. **Upon a finding of**  
63 **economic benefit to the state, the director of the department of**  
64 **economic development may increase the amount of the tax credit,**  
65 **authorized under the provisions of this subsection in lieu of the credit**  
66 **against income taxes provided under subsection 1 of this section, to be**  
67 **taken by a Missouri business by an amount not to exceed two percent**  
68 **for each continuous five year period such employer has been a Missouri**

69 **business, up to a total increase of ten percent. The maximum amount**  
70 **of credits per Missouri business set forth in this subsection shall not**  
71 **exceed eighty-two thousand five hundred dollars for each of the three**  
72 **years after commencement in, or moving operations into, a distressed**  
73 **community.**

74 4. A corporation, partnership or sole partnership, which has no more than  
75 one hundred employees for whom payroll taxes are paid, which is already located  
76 in a distressed community and which expends funds for such equipment pursuant  
77 to subsection 3 of this section in an amount exceeding its average of the prior two  
78 years for such equipment, shall be eligible to receive a tax credit against income  
79 taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to  
80 the lesser of seventy-five thousand dollars or twenty-five percent of the funds  
81 expended for such additional equipment per such entity. **In the case of a**  
82 **Missouri business which is otherwise eligible to receive tax credits**  
83 **under the provisions of this subsection, the director of the department**  
84 **of economic development may, upon a finding of economic benefit to**  
85 **the state, increase the amount of the credit authorized under this**  
86 **subsection by an amount not to exceed two percent for each continuous**  
87 **five year period such employer has been a Missouri business, up to a**  
88 **total increase of ten percent.** Tax credits allowed pursuant to this subsection  
89 or subsection 1 of this section may be carried back to any of the three prior tax  
90 years and carried forward to any of the five tax years.

91 5. An existing corporation, partnership or sole proprietorship that is  
92 located within a distressed community and that relocates employees from another  
93 facility outside of the distressed community to its facility within the distressed  
94 community, and an existing business located within a distressed community that  
95 hires new employees for that facility may both be eligible for the tax credits  
96 allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,  
97 such a business, during one of its tax years, shall employ within a distressed  
98 community at least twice as many employees as were employed at the beginning  
99 of that tax year. A business hiring employees shall have no more than one  
100 hundred employees before the addition of the new employees. This subsection  
101 shall only apply to a business which is a manufacturing, biomedical, medical  
102 devices, scientific research, animal research, computer software design or  
103 development, computer programming or telecommunications business, or a  
104 professional firm.

105           6. Tax credits shall be approved for applicants meeting the requirements  
106 of this section in the order that such applications are received. Certificates of tax  
107 credits issued in accordance with this section may be transferred, sold or assigned  
108 by notarized endorsement which names the transferee.

109           7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this  
110 section shall be for an amount of no more than ten million dollars for each year  
111 beginning in 1999. To the extent there are available tax credits remaining under  
112 the ten million dollar cap provided in this section, up to one hundred thousand  
113 dollars in the remaining credits shall first be used for tax credits authorized  
114 under section 135.562. The total maximum credit for all entities already located  
115 in distressed communities and claiming credits pursuant to subsection 4 of this  
116 section shall be seven hundred and fifty thousand dollars. The department of  
117 economic development in approving taxpayers for the credit as provided for in  
118 subsection 6 of this section shall use information provided by the department of  
119 revenue regarding taxes paid in the previous year, or projected taxes for those  
120 entities newly established in the state, as the method of determining when this  
121 maximum will be reached and shall maintain a record of the order of  
122 approval. Any tax credit not used in the period for which the credit was approved  
123 may be carried over until the full credit has been allowed.

124           8. A Missouri employer relocating into a distressed community and having  
125 employees covered by a collective bargaining agreement at the facility from which  
126 it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this  
127 section, and its employees shall not be eligible for the credit in subsection 2 of  
128 this section if the relocation violates or terminates a collective bargaining  
129 agreement covering employees at the facility, unless the affected collective  
130 bargaining unit concurs with the move.

131           9. Notwithstanding any provision of law to the contrary, no taxpayer shall  
132 earn the tax credits allowed in this section and the tax credits otherwise allowed  
133 in section 135.110, or the tax credits, exemptions, and refund otherwise allowed  
134 in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same  
135 business for the same tax period.

136           **10. For purposes of this section, the term "Missouri business"**  
137 **shall mean any business with a physical presence in this state, with**  
138 **employees who routinely perform job duties within this state.**

          135.950. The following terms, whenever used in sections 135.950 to  
2 135.970 mean:

- 3 (1) "Average wage", the new payroll divided by the number of new jobs;
- 4 (2) "Blighted area", an area which, by reason of the predominance of  
5 defective or inadequate street layout, unsanitary or unsafe conditions,  
6 deterioration of site improvements, improper subdivision or obsolete platting, or  
7 the existence of conditions which endanger life or property by fire and other  
8 causes, or any combination of such factors, retards the provision of housing  
9 accommodations or constitutes an economic or social liability or a menace to the  
10 public health, safety, morals, or welfare in its present condition and use;
- 11 (3) "Board", an enhanced enterprise zone board established pursuant to  
12 section 135.957;
- 13 (4) "Commencement of commercial operations" shall be deemed to occur  
14 during the first taxable year for which the new business facility is first put into  
15 use by the taxpayer in the enhanced business enterprise in which the taxpayer  
16 intends to use the new business facility;
- 17 (5) "County average wage", the average wages in each county as  
18 determined by the department for the most recently completed full calendar  
19 year. However, if the computed county average wage is above the statewide  
20 average wage, the statewide average wage shall be deemed the county average  
21 wage for such county for the purpose of determining eligibility. The department  
22 shall publish the county average wage for each county at least  
23 annually. Notwithstanding the provisions of this subdivision to the contrary, for  
24 any taxpayer that in conjunction with their project is relocating employees from  
25 a Missouri county with a higher county average wage, such taxpayer shall obtain  
26 the endorsement of the governing body of the community from which jobs are  
27 being relocated or the county average wage for their project shall be the county  
28 average wage for the county from which the employees are being relocated;
- 29 (6) "Department", the department of economic development;
- 30 (7) "Director", the director of the department of economic development;
- 31 (8) "Employee", a person employed by the enhanced business enterprise  
32 that is scheduled to work an average of at least one thousand hours per year, and  
33 such person at all times has health insurance offered to him or her, which is  
34 partially paid for by the employer;
- 35 (9) "Enhanced business enterprise", an industry or one of a cluster of  
36 industries that is either:
- 37 (a) Identified by the department as critical to the state's economic security  
38 and growth; or

39 (b) Will have an impact on industry cluster development, as identified by  
40 the governing authority in its application for designation of an enhanced  
41 enterprise zone and approved by the department; but excluding gambling  
42 establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and  
43 45), educational services (NAICS sector 61), religious organizations (NAICS  
44 industry group 8131), public administration (NAICS sector 92), and food and  
45 drinking places (NAICS subsector 722), however, notwithstanding provisions of  
46 this section to the contrary, headquarters or administrative offices of an  
47 otherwise excluded business may qualify for benefits if the offices serve a  
48 multistate territory. In the event a national, state, or regional headquarters  
49 operation is not the predominant activity of a project facility, the new jobs and  
50 investment of such headquarters operation is considered eligible for benefits  
51 under this section if the other requirements are satisfied. Service industries may  
52 be eligible only if a majority of its annual revenues will be derived from out of the  
53 state;

54 (10) "Existing business facility", any facility in this state which was  
55 employed by the taxpayer claiming the credit in the operation of an enhanced  
56 business enterprise immediately prior to an expansion, acquisition, addition, or  
57 replacement;

58 (11) "Facility", any building used as an enhanced business enterprise  
59 located within an enhanced enterprise zone, including the land on which the  
60 facility is located and all machinery, equipment, and other real and depreciable  
61 tangible personal property acquired for use at and located at or within such  
62 facility and used in connection with the operation of such facility;

63 (12) "Facility base employment", the greater of the number of employees  
64 located at the facility on the date of the notice of intent, or for the twelve-month  
65 period prior to the date of the notice of intent, the average number of employees  
66 located at the facility, or in the event the project facility has not been in operation  
67 for a full twelve-month period, the average number of employees for the number  
68 of months the facility has been in operation prior to the date of the notice of  
69 intent;

70 (13) "Facility base payroll", the total amount of taxable wages paid by the  
71 enhanced business enterprise to employees of the enhanced business enterprise  
72 located at the facility in the twelve months prior to the notice of intent, not  
73 including the payroll of owners of the enhanced business enterprise unless the  
74 enhanced business enterprise is participating in an employee stock ownership

75 plan. For the purposes of calculating the benefits under this program, the  
76 amount of base payroll shall increase each year based on the consumer price  
77 index or other comparable measure, as determined by the department;

78 (14) "Governing authority", the body holding primary legislative authority  
79 over a county or incorporated municipality;

80 (15) **"Missouri business", any business with a physical presence**  
81 **in this state, with employees who routinely perform job duties within**  
82 **this state;**

83 (16) "Megaproject", any manufacturing or assembling facility, approved  
84 by the department for construction and operation within an enhanced enterprise  
85 zone, which satisfies the following:

86 (a) The new capital investment is projected to exceed three hundred  
87 million dollars over a period of eight years from the date of approval by the  
88 department;

89 (b) The number of new jobs is projected to exceed one thousand over a  
90 period of eight years beginning on the date of approval by the department;

91 (c) The average wage of new jobs to be created shall exceed the county  
92 average wage;

93 (d) The taxpayer shall offer health insurance to all new jobs and pay at  
94 least eighty percent of such insurance premiums; and

95 (e) An acceptable plan of repayment, to the state, of the tax credits  
96 provided for the megaproject has been provided by the taxpayer;

97 [(16)] (17) "NAICS", the 1997 edition of the North American Industry  
98 Classification System as prepared by the Executive Office of the President, Office  
99 of Management and Budget. Any NAICS sector, subsector, industry group or  
100 industry identified in this section shall include its corresponding classification in  
101 subsequent federal industry classification systems;

102 [(17)] (18) "New business facility", a facility that satisfies the following  
103 requirements:

104 (a) Such facility is employed by the taxpayer in the operation of an  
105 enhanced business enterprise. Such facility shall not be considered a new  
106 business facility in the hands of the taxpayer if the taxpayer's only activity with  
107 respect to such facility is to lease it to another person or persons. If the taxpayer  
108 employs only a portion of such facility in the operation of an enhanced business  
109 enterprise, and leases another portion of such facility to another person or  
110 persons or does not otherwise use such other portions in the operation of an

111 enhanced business enterprise, the portion employed by the taxpayer in the  
112 operation of an enhanced business enterprise shall be considered a new business  
113 facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are  
114 satisfied;

115 (b) Such facility is acquired by, or leased to, the taxpayer after December  
116 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the  
117 taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the  
118 transfer of possession pursuant to a binding contract to transfer title to the  
119 taxpayer, or the commencement of the term of the lease to the taxpayer occurs  
120 after December 31, 2004;

121 (c) If such facility was acquired by the taxpayer from another taxpayer  
122 and such facility was employed immediately prior to the acquisition by another  
123 taxpayer in the operation of an enhanced business enterprise, the operation of the  
124 same or a substantially similar enhanced business enterprise is not continued by  
125 the taxpayer at such facility; and

126 (d) Such facility is not a replacement business facility, as defined in  
127 subdivision [(25)] **(26)** of this section;

128 [(18)] **(19)** "New business facility employee", an employee of the taxpayer  
129 in the operation of a new business facility during the taxable year for which the  
130 credit allowed by section 135.967 is claimed, except that truck drivers and rail  
131 and barge vehicle operators and other operators of rolling stock for hire shall not  
132 constitute new business facility employees;

133 [(19)] **(20)** "New business facility investment", the value of real and  
134 depreciable tangible personal property, acquired by the taxpayer as part of the  
135 new business facility, which is used by the taxpayer in the operation of the new  
136 business facility, during the taxable year for which the credit allowed by 135.967  
137 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles,  
138 barge vehicles, aircraft and other rolling stock for hire, track, switches, barges,  
139 bridges, tunnels, and rail yards and spurs shall not constitute new business  
140 facility investments. The total value of such property during such taxable year  
141 shall be:

142 (a) Its original cost if owned by the taxpayer; or

143 (b) Eight times the net annual rental rate, if leased by the taxpayer. The  
144 net annual rental rate shall be the annual rental rate paid by the taxpayer less  
145 any annual rental rate received by the taxpayer from subrentals. The new  
146 business facility investment shall be determined by dividing by twelve the sum

147 of the total value of such property on the last business day of each calendar  
148 month of the taxable year. If the new business facility is in operation for less  
149 than an entire taxable year, the new business facility investment shall be  
150 determined by dividing the sum of the total value of such property on the last  
151 business day of each full calendar month during the portion of such taxable year  
152 during which the new business facility was in operation by the number of full  
153 calendar months during such period;

154 ~~[(20)]~~ **(21)** "New job", the number of employees located at the facility that  
155 exceeds the facility base employment less any decrease in the number of the  
156 employees at related facilities below the related facility base employment. No job  
157 that was created prior to the date of the notice of intent shall be deemed a new  
158 job;

159 ~~[(21)]~~ **(22)** "Notice of intent", a form developed by the department which  
160 is completed by the enhanced business enterprise and submitted to the  
161 department which states the enhanced business enterprise's intent to hire new  
162 jobs and request benefits under such program;

163 ~~[(22)]~~ **(23)** "Related facility", a facility operated by the enhanced business  
164 enterprise or a related company in this state that is directly related to the  
165 operation of the project facility;

166 ~~[(23)]~~ **(24)** "Related facility base employment", the greater of:

167 (a) The number of employees located at all related facilities on the date  
168 of the notice of intent; or

169 (b) For the twelve-month period prior to the date of the notice of intent,  
170 the average number of employees located at all related facilities of the enhanced  
171 business enterprise or a related company located in this state;

172 ~~[(24)]~~ **(25)** "Related taxpayer":

173 (a) A corporation, partnership, trust, or association controlled by the  
174 taxpayer;

175 (b) An individual, corporation, partnership, trust, or association in control  
176 of the taxpayer; or

177 (c) A corporation, partnership, trust or association controlled by an  
178 individual, corporation, partnership, trust or association in control of the  
179 taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly,  
180 of stock possessing at least fifty percent of the total combined voting power of all  
181 classes of stock entitled to vote, "control of a partnership or association" shall  
182 mean ownership of at least fifty percent of the capital or profits interest in such

183 partnership or association, and "control of a trust" shall mean ownership, directly  
184 or indirectly, of at least fifty percent of the beneficial interest in the principal or  
185 income of such trust; ownership shall be determined as provided in Section 318  
186 of the Internal Revenue Code of 1986, as amended;

187 ~~[(25)]~~ **(26)** "Replacement business facility", a facility otherwise described  
188 in subdivision ~~[(17)]~~ **(18)** of this section, hereafter referred to in this subdivision  
189 as "new facility", which replaces another facility, hereafter referred to in this  
190 subdivision as "old facility", located within the state, which the taxpayer or a  
191 related taxpayer previously operated but discontinued operating on or before the  
192 close of the first taxable year for which the credit allowed by this section is  
193 claimed. A new facility shall be deemed to replace an old facility if the following  
194 conditions are met:

195 (a) The old facility was operated by the taxpayer or a related taxpayer  
196 during the taxpayer's or related taxpayer's taxable period immediately preceding  
197 the taxable year in which commencement of commercial operations occurs at the  
198 new facility; and

199 (b) The old facility was employed by the taxpayer or a related taxpayer  
200 in the operation of an enhanced business enterprise and the taxpayer continues  
201 the operation of the same or substantially similar enhanced business enterprise  
202 at the new facility. Notwithstanding the preceding provisions of this subdivision,  
203 a facility shall not be considered a replacement business facility if the taxpayer's  
204 new business facility investment, as computed in subdivision ~~[(19)]~~ **(20)** of this  
205 section, in the new facility during the tax period for which the credits allowed in  
206 section 135.967 are claimed exceed one million dollars and if the total number of  
207 employees at the new facility exceeds the total number of employees at the old  
208 facility by at least two;

209 ~~[(26)]~~ **(27)** "Same or substantially similar enhanced business enterprise",  
210 an enhanced business enterprise in which the nature of the products produced or  
211 sold, or activities conducted, are similar in character and use or are produced,  
212 sold, performed, or conducted in the same or similar manner as in another  
213 enhanced business enterprise.

135.967. 1. A taxpayer who establishes a new business facility may, upon  
2 approval by the department, be allowed a credit, each tax year for up to ten tax  
3 years, in an amount determined as set forth in this section, against the tax  
4 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections  
5 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods

6 for subsequent expansions at the same facility.

7           2. Notwithstanding any provision of law to the contrary, any taxpayer who  
8 establishes a new business facility in an enhanced enterprise zone and is awarded  
9 state tax credits under this section may not also receive tax credits under sections  
10 135.100 to 135.150, sections 135.200 to 135.286, or section 135.535, and may not  
11 simultaneously receive tax credits under sections 620.1875 to 620.1890, RSMo,  
12 at the same facility.

13           3. No credit shall be issued pursuant to this section unless:

14           (1) The number of new business facility employees engaged or maintained  
15 in employment at the new business facility for the taxable year for which the  
16 credit is claimed equals or exceeds two; and

17           (2) The new business facility investment for the taxable year for which the  
18 credit is claimed equals or exceeds one hundred thousand dollars.

19           4. The annual amount of credits allowed for an approved enhanced  
20 business enterprise shall be the lesser of:

21           (1) The annual amount authorized by the department for the enhanced  
22 business enterprise, which shall be limited to the projected state economic  
23 benefit, as determined by the department; or

24           (2) The sum calculated based upon the following:

25           (a) A credit of four hundred dollars for each new business facility  
26 employee employed within an enhanced enterprise zone;

27           (b) An additional credit of four hundred dollars for each new business  
28 facility employee who is a resident of an enhanced enterprise zone;

29           (c) An additional credit of four hundred dollars for each new business  
30 facility employee who is paid by the enhanced business enterprise a wage that  
31 exceeds the average wage paid within the county in which the facility is located,  
32 as determined by the department; and

33           (d) A credit equal to two percent of new business facility investment  
34 within an enhanced enterprise zone.

35           **5. The director may, upon a finding of economic benefit to the**  
36 **state, increase the annual amount authorized by the department under**  
37 **the provisions of subsection 4 of this section, for an enhanced business**  
38 **enterprise which is a Missouri business by an amount not to exceed two**  
39 **percent for every continuous five year period such enhanced business**  
40 **enterprise has been a Missouri business up to a total increase of ten**  
41 **percent.**

42           **6.** Prior to January 1, 2007, in no event shall the department authorize  
43 more than four million dollars annually to be issued for all enhanced business  
44 enterprises. After December 31, 2006, in no event shall the department authorize  
45 more than twenty-four million dollars annually to be issued for all enhanced  
46 business enterprises.

47           **[6.] 7.** If a facility, which does not constitute a new business facility, is  
48 expanded by the taxpayer, the expansion shall be considered eligible for the credit  
49 allowed by this section if:

50           (1) The taxpayer's new business facility investment in the expansion  
51 during the tax period in which the credits allowed in this section are claimed  
52 exceeds one hundred thousand dollars and if the number of new business facility  
53 employees engaged or maintained in employment at the expansion facility for the  
54 taxable year for which credit is claimed equals or exceeds two, and the total  
55 number of employees at the facility after the expansion is at least two greater  
56 than the total number of employees before the expansion; and

57           (2) The taxpayer's investment in the expansion and in the original facility  
58 prior to expansion shall be determined in the manner provided in subdivision  
59 **[(19)] (20)** of section 135.950.

60           **[7.] 8.** The number of new business facility employees during any taxable  
61 year shall be determined by dividing by twelve the sum of the number of  
62 individuals employed on the last business day of each month of such taxable year.  
63 If the new business facility is in operation for less than the entire taxable year,  
64 the number of new business facility employees shall be determined by dividing  
65 the sum of the number of individuals employed on the last business day of each  
66 full calendar month during the portion of such taxable year during which the new  
67 business facility was in operation by the number of full calendar months during  
68 such period. For the purpose of computing the credit allowed by this section in  
69 the case of a facility which qualifies as a new business facility under subsection  
70 **[6] 7** of this section, and in the case of a new business facility which satisfies the  
71 requirements of paragraph (c) of subdivision **[(17)] (18)** of section 135.950, or  
72 subdivision **[(25)] (26)** of section 135.950, the number of new business facility  
73 employees at such facility shall be reduced by the average number of individuals  
74 employed, computed as provided in this subsection, at the facility during the  
75 taxable year immediately preceding the taxable year in which such expansion,  
76 acquisition, or replacement occurred and shall further be reduced by the number  
77 of individuals employed by the taxpayer or related taxpayer that was

78 subsequently transferred to the new business facility from another Missouri  
79 facility and for which credits authorized in this section are not being earned,  
80 whether such credits are earned because of an expansion, acquisition, relocation,  
81 or the establishment of a new facility.

82       **[8.] 9.** In the case where a new business facility employee who is a  
83 resident of an enhanced enterprise zone for less than a twelve-month period is  
84 employed for less than a twelve-month period, the credits allowed by paragraph  
85 (b) of subdivision (2) of subsection 4 of this section shall be determined by  
86 multiplying four hundred dollars by a fraction, the numerator of which is the  
87 number of calendar days during the taxpayer's tax year for which such credits are  
88 claimed, in which the employee was a resident of an enhanced enterprise zone,  
89 and the denominator of which is three hundred sixty-five.

90       **[9.] 10.** For the purpose of computing the credit allowed by this section  
91 in the case of a facility which qualifies as a new business facility pursuant to  
92 subsection **[6] 7** of this section, and in the case of a new business facility which  
93 satisfies the requirements of paragraph (c) of subdivision **[(17)] (18)** of section  
94 135.950 or subdivision **[(25)] (26)** of section 135.950, the amount of the taxpayer's  
95 new business facility investment in such facility shall be reduced by the average  
96 amount, computed as provided in subdivision **[(19)] (20)** of section 135.950 for  
97 new business facility investment, of the investment of the taxpayer, or related  
98 taxpayer immediately preceding such expansion or replacement or at the time of  
99 acquisition. Furthermore, the amount of the taxpayer's new business facility  
100 investment shall also be reduced by the amount of investment employed by the  
101 taxpayer or related taxpayer which was subsequently transferred to the new  
102 business facility from another Missouri facility and for which credits authorized  
103 in this section are not being earned, whether such credits are earned because of  
104 an expansion, acquisition, relocation, or the establishment of a new facility.

105       **[10.] 11.** For a taxpayer with flow-through tax treatment to its members,  
106 partners, or shareholders, the credit shall be allowed to members, partners, or  
107 shareholders in proportion to their share of ownership on the last day of the  
108 taxpayer's tax period.

109       **[11.] 12.** Credits may not be carried forward but shall be claimed for the  
110 taxable year during which commencement of commercial operations occurs at  
111 such new business facility, and for each of the nine succeeding taxable years for  
112 which the credit is issued.

113       **[12.] 13.** Certificates of tax credit authorized by this section may be

114 transferred, sold, or assigned by filing a notarized endorsement thereof with the  
115 department that names the transferee, the amount of tax credit transferred, and  
116 the value received for the credit, as well as any other information reasonably  
117 requested by the department. The sale price cannot be less than seventy-five  
118 percent of the par value of such credits.

119 [13.] 14. The director of revenue shall issue a refund to the taxpayer to  
120 the extent that the amount of credits allowed in this section exceeds the amount  
121 of the taxpayer's income tax.

122 [14.] 15. Prior to the issuance of tax credits, the department shall verify  
123 through the department of revenue, or any other state department, that the tax  
124 credit applicant does not owe any delinquent income, sales, or use tax or interest  
125 or penalties on such taxes, or any delinquent fees or assessments levied by any  
126 state department and through the department of insurance, financial institutions  
127 and professional registration that the applicant does not owe any delinquent  
128 insurance taxes. Such delinquency shall not affect the authorization of the  
129 application for such tax credits, except that the amount of credits issued shall be  
130 reduced by the applicant's tax delinquency. If the department of revenue or the  
131 department of insurance, financial institutions and professional registration, or  
132 any other state department, concludes that a taxpayer is delinquent after June  
133 fifteenth but before July first of any year and the application of tax credits to  
134 such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then  
135 the taxpayer shall be granted thirty days to satisfy the deficiency in which  
136 interest, penalties, and additions to tax shall be tolled. After applying all  
137 available credits toward a tax delinquency, the administering agency shall notify  
138 the appropriate department, and that department shall update the amount of  
139 outstanding delinquent tax owed by the applicant. If any credits remain after  
140 satisfying all insurance, income, sales, and use tax delinquencies, the remaining  
141 credits shall be issued to the applicant, subject to the restrictions of other  
142 provisions of law.

178.760. As used in sections 178.760 to 178.764, the following terms  
2 mean:

3 (1) "Agreement", the agreement between an employer and a community  
4 college district concerning a project. An agreement may be for a period not to  
5 exceed ten years when the program services associated with a project are not in  
6 excess of five hundred thousand dollars. For a project where the associated  
7 program costs are greater than five hundred thousand dollars, the agreement may

8 not exceed a period of eight years;

9 (2) "Board of trustees", the board of trustees of a community college  
10 district;

11 (3) "Capital investment", an investment in research and development,  
12 working capital, and real and tangible personal business property except  
13 inventory or property intended for sale to customers. Trucks, truck trailers, truck  
14 semi-trailers, rail and barge vehicles and other rolling stock for hire, track,  
15 switches, barges, bridges, tunnels, rail yards, and spurs shall not qualify as a  
16 capital investment. The amount of such investment shall be the original cost of  
17 the property if owned, or eight times the net annual rental rate if leased;

18 (4) "Certificate", industrial retained jobs training certificates issued under  
19 section 178.763;

20 (5) "Date of commencement of the project", the date of the agreement;

21 (6) "Employee", the person employed in a retained job;

22 (7) "Employer", the person maintaining retained jobs in conjunction with  
23 a project;

24 (8) "Industry", a business located within this state which enters into an  
25 agreement with a community college district and which is engaged in interstate  
26 or intrastate commerce for the purpose of manufacturing, processing, or  
27 assembling products, conducting research and development, or providing services  
28 in interstate commerce, but excluding retail services;

29 (9) **"Missouri business", any business with a physical presence in**  
30 **this state, with employees who routinely perform job duties within this**  
31 **state;**

32 (10) "Program costs", all necessary and incidental costs of providing  
33 program services, including payment of the principal, premium, and interest on  
34 certificates, including capitalized interest, issued to finance a project, funding and  
35 maintenance of a debt service reserve fund to secure such certificates and wages,  
36 salaries and benefits of employees participating in on-the-job training;

37 [(10)] (11) "Program services" includes, but is not limited to, the  
38 following:

39 (a) Retained jobs training;

40 (b) Adult basic education and job-related instruction;

41 (c) Vocational and skill-assessment services and testing;

42 (d) Training facilities, equipment, materials, and supplies;

43 (e) On-the-job training;

44 (f) Administrative expenses equal to seventeen percent of the total  
45 training costs, two percent to be paid to the department of economic development  
46 for deposit into the Missouri job development fund created under section 620.478,  
47 RSMo;

48 (g) Subcontracted services with state institutions of higher education,  
49 private colleges or universities, or other federal, state, or local agencies;

50 (h) Contracted or professional services; and

51 (i) Issuance of certificates;

52 [(11)] (12) "Project", a training arrangement which is the subject of an  
53 agreement entered into between the community college district and an employer  
54 to provide program services that is not also the subject of an agreement entered  
55 into between a community college district and an employer to provide program  
56 services under sections 178.892 to 178.896;

57 [(12)] (13) "Retained job", a job in a stable industry, not including jobs  
58 for recalled workers, which was in existence for at least two consecutive calendar  
59 years preceding the year in which the application for the retained jobs training  
60 program was made;

61 [(13)] (14) "Retained jobs credit from withholding", the credit as provided  
62 in section 178.762;

63 [(14)] (15) "Retained jobs training program", or "program", the project or  
64 projects established by a community college district for the retention of jobs, by  
65 providing education and training of workers for existing jobs for stable industry  
66 in the state;

67 [(15)] (16) "Stable industry", a business that otherwise meets the  
68 definition of industry and retains existing jobs. To be a stable industry, the  
69 business shall have:

70 (a) Maintained at least one hundred employees per year at the employer's  
71 site in the state at which the jobs are based, for each of the two calendar years  
72 preceding the year in which application for the program is made;

73 (b) Retained at that site the level of employment that existed in the  
74 taxable year immediately preceding the year in which application for the program  
75 is made; and

76 (c) Made or agree to make a capital investment aggregating at least one  
77 million dollars to acquire or improve long-term assets (including leased facilities)  
78 such as property, plant, or equipment (excluding program costs) at the employer's  
79 site in the state at which jobs are based over a period of three consecutive

80 calendar years, as certified by the employer and:

81 a. Have made substantial investment in new technology requiring the  
82 upgrading of worker's skills; or

83 b. Be located in a border county of the state and represent a potential risk  
84 of relocation from the state; or

85 c. Be determined to represent a substantial risk of relocation from the  
86 state by the director of the department of economic development;

87 [(16)] (17) "Total training costs", costs of training, including supplies,  
88 wages and benefits of instructors, subcontracted services, on-the-job training,  
89 training facilities, equipment, skill assessment, and all program services  
90 excluding issuance of certificates.

178.762. 1. If an agreement provides that all or part of program costs are  
2 to be met by receipt of retained jobs credit from withholding, such retained jobs  
3 credit from withholding shall be determined and paid as follows:

4 (1) Retained jobs credit from withholding shall be based upon the wages  
5 paid to the employees in the retained jobs;

6 (2) A portion of the total payments made by the employer under section  
7 143.221, RSMo, shall be designated as the retained jobs credit from  
8 withholding. Such portion shall be an amount equal to two and one-half percent  
9 of the gross wages paid by the employer for each of the first one hundred jobs  
10 included in the project and one and one-half percent of the gross wages paid by  
11 the employer for each of the remaining jobs included in the project. If business  
12 or employment conditions cause the amount of the retained jobs credit from  
13 withholding to be less than the amount projected in the agreement for any time  
14 period, then other withholding tax paid by the employer under section 143.221,  
15 RSMo, shall be credited to the Missouri community college retained job training  
16 fund by the amount of such difference.

17 The employer shall remit the amount of the retained jobs credit to the  
18 department of revenue in the manner prescribed in section 178.764. When all  
19 program costs, including the principal, premium, and interest on the certificates  
20 have been paid, the employer credits shall cease;

21 (3) The community college district participating in a project shall  
22 establish a special fund for and in the name of the project. All funds  
23 appropriated by the general assembly from the Missouri community college job  
24 training retention program fund and disbursed by the division of workforce  
25 development for the project and other amounts received by the district in respect

26 of the project and required by the agreement to be used to pay program costs for  
27 the project shall be deposited in the special fund. Amounts held in the special  
28 fund may be used and disbursed by the district only to pay program costs for the  
29 project. The special fund may be divided into such accounts and subaccounts as  
30 shall be provided in the agreement, and amounts held therein may be invested  
31 in investments which are legal for the investment of the district's other funds;

32 (4) Any disbursement in respect of a project received from the division of  
33 workforce development under sections 178.760 to 178.764 and the special fund  
34 into which it is paid may be irrevocably pledged by a community college district  
35 for the payment of the principal, premium, and interest on the certificate issued  
36 by a community college district to finance or refinance, in whole or in part, the  
37 project;

38 (5) The employer shall certify to the department of revenue that the credit  
39 from withholding is in accordance with an agreement and shall provide other  
40 information the department may require;

41 (6) An employee participating in a project will receive full credit for the  
42 amount designated as a retained jobs credit from withholding and withheld as  
43 provided in section 143.221, RSMo;

44 (7) If an agreement provides that all or part of program costs are to be  
45 met by receipt of retained jobs credit from withholding, the provisions of this  
46 subsection shall also apply to any successor to the original employer until such  
47 time as the principal and interest on the certificates have been paid.

48 **2. The director of the department of economic development may,**  
49 **upon a finding of economic benefit to the state, increase the amount of**  
50 **the retained jobs credit from withholding, provided under subsection**  
51 **1 of this section, for a project involving an employer which is a**  
52 **Missouri business by an amount not to exceed two percent for every**  
53 **continuous five year period such employer has been a Missouri**  
54 **business up to a total increase of ten percent.**

178.892. As used in sections 178.892 to 178.896, the following terms  
2 mean:

3 (1) "Agreement", the agreement, between an employer and a community  
4 college district, concerning a project. An agreement may be for a period not to  
5 exceed ten years when the program services associated with a project are not in  
6 excess of five hundred thousand dollars. For a project where associated program  
7 costs are greater than five hundred thousand dollars, the agreement may not

8 exceed a period of eight years. No agreement shall be entered into between an  
9 employer and a community college district which involves the training of  
10 potential employees with the purpose of replacing or supplanting employees  
11 engaged in an authorized work stoppage;

12 (2) "Board of trustees", the board of trustees of a community college  
13 district;

14 (3) "Certificate", industrial new jobs training certificates issued pursuant  
15 to section 178.895;

16 (4) "Date of commencement of the project", the date of the agreement;

17 (5) "Employee", the person employed in a new job;

18 (6) "Employer", the person providing new jobs in conjunction with a  
19 project;

20 (7) "Essential industry", a business that otherwise meets the definition  
21 of industry but instead of creating new jobs maintains existing jobs. To be an  
22 essential industry, the business must have maintained at least two thousand jobs  
23 each year for a period of four years preceding the year in which application for  
24 the program authorized by sections 178.892 to 178.896 is made and must be  
25 located in a home rule city with more than twenty-six thousand but less than  
26 twenty-seven thousand inhabitants located in any county with a charter form of  
27 government and with more than one million inhabitants;

28 (8) "Existing job", a job in an essential industry that pays wages or salary  
29 greater than the average of the county in which the project will be located;

30 (9) "Industry", a business located within the state of Missouri which  
31 enters into an agreement with a community college district and which is engaged  
32 in interstate or intrastate commerce for the purpose of manufacturing, processing,  
33 or assembling products, conducting research and development, or providing  
34 services in interstate commerce, but excluding retail services. "Industry" does not  
35 include a business which closes or substantially reduces its operation in one area  
36 of the state and relocates substantially the same operation in another area of the  
37 state. This does not prohibit a business from expanding its operations in another  
38 area of the state provided that existing operations of a similar nature are not  
39 closed or substantially reduced;

40 (10) **"Missouri business", any business with a physical presence**  
41 **in this state, with employees who routinely perform job duties within**  
42 **this state;**

43 (11) "New job", a job in a new or expanding industry not including jobs

44 of recalled workers, or replacement jobs or other jobs that formerly existed in the  
45 industry in the state. For an essential industry, an existing job shall be  
46 considered a new job for the purposes of the new job training programs;

47 [(11)] (12) "New jobs credit from withholding", the credit as provided in  
48 section 178.894;

49 [(12)] (13) "New jobs training program" or "program", the project or  
50 projects established by a community college district for the creation of jobs by  
51 providing education and training of workers for new jobs for new or expanding  
52 industry in the state;

53 [(13)] (14) "Program costs", all necessary and incidental costs of  
54 providing program services including payment of the principal of, premium, if  
55 any, and interest on certificates, including capitalized interest, issued to finance  
56 a project, funding and maintenance of a debt service reserve fund to secure such  
57 certificates and wages, salaries and benefits of employees participating in  
58 on-the-job training;

59 [(14)] (15) "Program services" includes, but is not limited to, the  
60 following:

- 61 (a) New jobs training;
- 62 (b) Adult basic education and job-related instruction;
- 63 (c) Vocational and skill-assessment services and testing;
- 64 (d) Training facilities, equipment, materials, and supplies;
- 65 (e) On-the-job training;
- 66 (f) Administrative expenses equal to fifteen percent of the total training  
67 costs;
- 68 (g) Subcontracted services with state institutions of higher education,  
69 private colleges or universities, or other federal, state, or local agencies;
- 70 (h) Contracted or professional services; and
- 71 (i) Issuance of certificates;

72 [(15)] (16) "Project", a training arrangement which is the subject of an  
73 agreement entered into between the community college district and an employer  
74 to provide program services;

75 [(16)] (17) "Total training costs", costs of training, including supplies,  
76 wages and benefits of instructors, subcontracted services, on-the-job training,  
77 training facilities, equipment, skill assessment and all program services excluding  
78 issuance of certificates.

178.894. 1. If an agreement provides that all or part of program costs are

2 to be met by receipt of new jobs credit from withholding, such new jobs credit  
3 from withholding shall be determined and paid as follows:

4 (1) New jobs credit from withholding shall be based upon the wages paid  
5 to the employees in the new jobs;

6 (2) A portion of the total payments made by the employer pursuant to  
7 section 143.221, RSMo, shall be designated as the new jobs credit from  
8 withholding. Such portion shall be an amount equal to two and one-half percent  
9 of the gross wages paid by the employer for each of the first one hundred jobs  
10 included in the project and one and one-half percent of the gross wages paid by  
11 the employer for each of the remaining jobs included in the project. If business  
12 or employment conditions cause the amount of the new jobs credit from  
13 withholding to be less than the amount projected in the agreement for any time  
14 period, then other withholding tax paid by the employer pursuant to section  
15 143.221, RSMo, shall be credited to the Missouri community college job training  
16 fund by the amount of such difference. The employer shall remit the amount of  
17 the new jobs credit to the department of revenue in the manner prescribed in  
18 section 178.896. When all program costs, including the principal of, premium, if  
19 any, and interest on the certificates have been paid, the employer credits shall  
20 cease;

21 (3) The community college district participating in a project shall  
22 establish a special fund for and in the name of the project. All funds  
23 appropriated by the general assembly from the Missouri community college job  
24 training program fund and disbursed by the division of job development and  
25 training for the project and other amounts received by the district in respect of  
26 the project and required by the agreement to be used to pay program costs for the  
27 project shall be deposited in the special fund. Amounts held in the special fund  
28 may be used and disbursed by the district only to pay program costs for the  
29 project. The special fund may be divided into such accounts and subaccounts as  
30 shall be provided in the agreement, and amounts held therein may be invested  
31 in investments which are legal for the investment of the district's other funds;

32 (4) Any disbursement in respect of a project received from the division of  
33 job development and training under the provisions of sections 178.892 to 178.896  
34 and the special fund into which it is paid may be irrevocably pledged by a  
35 community college district for the payment of the principal of, premium, if any,  
36 and interest on the certificate issued by a community college district to finance  
37 or refinance, in whole or in part, the project;

38 (5) The employer shall certify to the department of revenue that the credit  
39 from withholding is in accordance with an agreement and shall provide other  
40 information the department may require;

41 (6) An employee participating in a project will receive full credit for the  
42 amount designated as a new jobs credit from withholding and withheld as  
43 provided in section 143.221, RSMo;

44 (7) If an agreement provides that all or part of program costs are to be  
45 met by receipt of new jobs credit from withholding, the provisions of this  
46 subsection shall also apply to any successor to the original employer until such  
47 time as the principal and interest on the certificates have been paid.

48 **2. The director of the department of economic development may,**  
49 **upon a finding of economic benefit to the state, increase the amount of**  
50 **the new jobs credit from withholding, provided under subsection 1 of**  
51 **this section, for a project involving an employer which is a Missouri**  
52 **business by an amount not to exceed two percent for every continuous**  
53 **five year period such employer has been a Missouri business up to a**  
54 **total increase of ten percent.**

620.1878. For the purposes of sections 620.1875 to 620.1890, the following  
2 terms shall mean:

3 (1) "Approval", a document submitted by the department to the qualified  
4 company that states the benefits that may be provided by this program;

5 (2) "Average wage", the new payroll divided by the number of new jobs;

6 (3) "Commencement of operations", the starting date for the qualified  
7 company's first new employee, which must be no later than twelve months from  
8 the date of the approval;

9 (4) "County average wage", the average wages in each county as  
10 determined by the department for the most recently completed full calendar  
11 year. However, if the computed county average wage is above the statewide  
12 average wage, the statewide average wage shall be deemed the county average  
13 wage for such county for the purpose of determining eligibility. The department  
14 shall publish the county average wage for each county at least annually.  
15 Notwithstanding the provisions of this subdivision to the contrary, for any  
16 qualified company that in conjunction with their project is relocating employees  
17 from a Missouri county with a higher county average wage, the company shall  
18 obtain the endorsement of the governing body of the community from which jobs  
19 are being relocated or the county average wage for their project shall be the

20 county average wage for the county from which the employees are being relocated;

21 (5) "Department", the Missouri department of economic development;

22 (6) "Director", the director of the department of economic development;

23 (7) "Employee", a person employed by a qualified company;

24 (8) "Full-time employee", an employee of the qualified company that is

25 scheduled to work an average of at least thirty-five hours per week for a

26 twelve-month period, and one for which the qualified company offers health

27 insurance and pays at least fifty percent of such insurance premiums;

28 (9) "High-impact project", a qualified company that, within two years from

29 commencement of operations, creates one hundred or more new jobs;

30 (10) "Local incentives", the present value of the dollar amount of direct

31 benefit received by a qualified company for a project facility from one or more

32 local political subdivisions, but shall not include loans or other funds provided to

33 the qualified company that must be repaid by the qualified company to the

34 political subdivision;

35 (11) **"Missouri business", any business with a physical presence**

36 **in this state, with employees who routinely perform job duties within**

37 **this state;**

38 (12) "NAICS", the 1997 edition of the North American Industry

39 Classification System as prepared by the Executive Office of the President, Office

40 of Management and Budget. Any NAICS sector, subsector, industry group or

41 industry identified in this section shall include its corresponding classification in

42 subsequent federal industry classification systems;

43 [(12)] (13) "New direct local revenue", the present value of the dollar

44 amount of direct net new tax revenues of the local political subdivisions likely to

45 be produced by the project over a ten-year period as calculated by the

46 department, excluding local earnings tax, and net new utility revenues, provided

47 the local incentives include a discount or other direct incentives from utilities

48 owned or operated by the political subdivision;

49 [(13)] (14) "New investment", the purchase or leasing of new tangible

50 assets to be placed in operation at the project facility, which will be directly

51 related to the new jobs;

52 [(14)] (15) "New job", the number of full-time employees located at the

53 project facility that exceeds the project facility base employment less any decrease

54 in the number of full-time employees at related facilities below the related facility

55 base employment. No job that was created prior to the date of the notice of intent

56 shall be deemed a new job. An employee that spends less than fifty percent of the  
57 employee's work time at the facility is still considered to be located at a facility  
58 if the employee receives his or her directions and control from that facility, is on  
59 the facility's payroll, one hundred percent of the employee's income from such  
60 employment is Missouri income, and the employee is paid at or above the state  
61 average wage;

62 [(15)] (16) "New payroll", the amount of taxable wages of full-time  
63 employees, excluding owners, located at the project facility that exceeds the  
64 project facility base payroll. If full-time employment at related facilities is below  
65 the related facility base employment, any decrease in payroll for full-time  
66 employees at the related facilities below that related facility base payroll shall  
67 also be subtracted to determine new payroll;

68 [(16)] (17) "Notice of intent", a form developed by the department,  
69 completed by the qualified company and submitted to the department which  
70 states the qualified company's intent to hire new jobs and request benefits under  
71 this program;

72 [(17)] (18) "Percent of local incentives", the amount of local incentives  
73 divided by the amount of new direct local revenue;

74 [(18)] (19) "Program", the Missouri quality jobs program provided in  
75 sections 620.1875 to 620.1890;

76 [(19)] (20) "Project facility", the building used by a qualified company at  
77 which the new jobs and new investment will be located. A project facility may  
78 include separate buildings that are located within fifteen miles of each other or  
79 within the same county such that their purpose and operations are interrelated;

80 [(20)] (21) "Project facility base employment", the greater of the number  
81 of full-time employees located at the project facility on the date of the notice of  
82 intent or for the twelve-month period prior to the date of the notice of intent, the  
83 average number of full-time employees located at the project facility. In the event  
84 the project facility has not been in operation for a full twelve-month period, the  
85 average number of full-time employees for the number of months the project  
86 facility has been in operation prior to the date of the notice of intent;

87 [(21)] (22) "Project facility base payroll", the total amount of taxable  
88 wages paid by the qualified company to full-time employees of the qualified  
89 company located at the project facility in the twelve months prior to the notice of  
90 intent, not including the payroll of the owners of the qualified company unless the  
91 qualified company is participating in an employee stock ownership plan. For

92 purposes of calculating the benefits under this program, the amount of base  
93 payroll shall increase each year based on an appropriate measure, as determined  
94 by the department;

95 ~~[(22)]~~ **(23)** "Project period", the time period that the benefits are provided  
96 to a qualified company;

97 ~~[(23)]~~ **(24)** "Qualified company", a firm, partnership, joint venture,  
98 association, private or public corporation whether organized for profit or not, or  
99 headquarters of such entity registered to do business in Missouri that is the  
100 owner or operator of a project facility, offers health insurance to all full-time  
101 employees of all facilities located in this state, and pays at least fifty percent of  
102 such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the  
103 term "qualified company" shall not include:

104 (a) Gambling establishments (NAICS industry group 7132);

105 (b) Retail trade establishments (NAICS sectors 44 and 45);

106 (c) Food and drinking places (NAICS subsector 722);

107 (d) Public utilities (NAICS 221 including water and sewer services);

108 (e) Any company that is delinquent in the payment of any nonprotested  
109 taxes or any other amounts due the state or federal government or any other  
110 political subdivision of this state;

111 (f) Any company that has filed for or has publicly announced its intention  
112 to file for bankruptcy protection. However, a company that has filed for or has  
113 publicly announced its intention to file for bankruptcy between January 1, 2009,  
114 and December 31, 2009, may be a qualified company provided that such company:

115 a. Certifies to the department that it plans to reorganize and not to  
116 liquidate; and

117 b. After its bankruptcy petition has been filed, it produces proof, in a form  
118 and at times satisfactory to the department, that it is not delinquent in filing any  
119 tax returns or making any payment due to the state of Missouri, including but  
120 not limited to all tax payments due after the filing of the bankruptcy petition and  
121 under the terms of the plan of reorganization. Any taxpayer who is awarded  
122 benefits under this subsection and who files for bankruptcy under Chapter 7 of  
123 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the  
124 department and shall forfeit such benefits and shall repay the state an amount  
125 equal to any state tax credits already redeemed and any withholding taxes  
126 already retained;

127 (g) Educational services (NAICS sector 61);

128 (h) Religious organizations (NAICS industry group 8131);  
129 (i) Public administration (NAICS sector 92);  
130 (j) Ethanol distillation or production; or  
131 (k) Biodiesel production. Notwithstanding any provision of this section  
132 to the contrary, the headquarters or administrative offices of an otherwise  
133 excluded business may qualify for benefits if the offices serve a multistate  
134 territory. In the event a national, state, or regional headquarters operation is not  
135 the predominant activity of a project facility, the new jobs and investment of such  
136 headquarters operation is considered eligible for benefits under this section if the  
137 other requirements are satisfied;

138 [(24)] **(25)** "Qualified renewable energy sources" shall not be construed  
139 to include ethanol distillation or production or biodiesel production; however, it  
140 shall include:

- 141 (a) Open-looped biomass;
- 142 (b) Close-looped biomass;
- 143 (c) Solar;
- 144 (d) Wind;
- 145 (e) Geothermal; and
- 146 (f) Hydropower;

147 [(25)] **(26)** "Related company" means:

- 148 (a) A corporation, partnership, trust, or association controlled by the  
149 qualified company;
- 150 (b) An individual, corporation, partnership, trust, or association in control  
151 of the qualified company; or
- 152 (c) Corporations, partnerships, trusts or associations controlled by an  
153 individual, corporation, partnership, trust or association in control of the  
154 qualified company. As used in this subdivision, "control of a corporation" shall  
155 mean ownership, directly or indirectly, of stock possessing at least fifty percent  
156 of the total combined voting power of all classes of stock entitled to vote, "control  
157 of a partnership or association" shall mean ownership of at least fifty percent of  
158 the capital or profits interest in such partnership or association, "control of a  
159 trust" shall mean ownership, directly or indirectly, of at least fifty percent of the  
160 beneficial interest in the principal or income of such trust, and ownership shall  
161 be determined as provided in Section 318 of the Internal Revenue Code of 1986,  
162 as amended;

163 [(26)] **(27)** "Related facility", a facility operated by the qualified company

164 or a related company located in this state that is directly related to the operations  
165 of the project facility;

166 [(27)] (28) "Related facility base employment", the greater of the number  
167 of full-time employees located at all related facilities on the date of the notice of  
168 intent or for the twelve-month period prior to the date of the notice of intent, the  
169 average number of full-time employees located at all related facilities of the  
170 qualified company or a related company located in this state;

171 [(28)] (29) "Related facility base payroll", the total amount of taxable  
172 wages paid by the qualified company to full-time employees of the qualified  
173 company located at a related facility in the twelve months prior to the filing of  
174 the notice of intent, not including the payroll of the owners of the qualified  
175 company unless the qualified company is participating in an employee stock  
176 ownership plan. For purposes of calculating the benefits under this program, the  
177 amount of related facility base payroll shall increase each year based on an  
178 appropriate measure, as determined by the department;

179 [(29)] (30) "Rural area", a county in Missouri with a population less than  
180 seventy-five thousand or that does not contain an individual city with a  
181 population greater than fifty thousand according to the most recent federal  
182 decennial census;

183 [(30)] (31) "Small and expanding business project", a qualified company  
184 that within two years of the date of the approval creates a minimum of twenty  
185 new jobs if the project facility is located in a rural area or a minimum of forty  
186 new jobs if the project facility is not located in a rural area and creates fewer  
187 than one hundred new jobs regardless of the location of the project facility;

188 [(31)] (32) "Tax credits", tax credits issued by the department to offset  
189 the state income taxes imposed by chapters 143 and 148, RSMo, or which may be  
190 sold or refunded as provided for in this program;

191 [(32)] (33) "Technology business project", a qualified company that within  
192 two years of the date of the approval creates a minimum of ten new jobs involved  
193 in the operations of a company:

194 (a) Which is a technology company, as determined by a regulation  
195 promulgated by the department under the provisions of section 620.1884 or  
196 classified by NAICS codes;

197 (b) Which owns or leases a facility which produces electricity derived from  
198 qualified renewable energy sources, or produces fuel for the generation of  
199 electricity from qualified renewable energy sources, but does not include any

200 company that has received the alcohol mixture credit, alcohol credit, or small  
201 ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the  
202 previous tax year;

203 (c) Which researches, develops, or manufactures power system technology  
204 for: aerospace; space; defense; hybrid vehicles; or implantable or wearable  
205 medical devices; or

206 (d) Which is a clinical molecular diagnostic laboratory focused on  
207 detecting and monitoring infections in immunocompromised patient populations;

208 [(33)] (34) "Withholding tax", the state tax imposed by sections 143.191  
209 to 143.265, RSMo. For purposes of this program, the withholding tax shall be  
210 computed using a schedule as determined by the department based on average  
211 wages.

620.1881. 1. The department of economic development shall respond  
2 within thirty days to a company who provides a notice of intent with either an  
3 approval or a rejection of the notice of intent. The department shall give  
4 preference to qualified companies and projects targeted at an area of the state  
5 which has recently been classified as a disaster area by the federal  
6 government. Failure to respond on behalf of the department of economic  
7 development shall result in the notice of intent being deemed an approval for the  
8 purposes of this section. A qualified company who is provided an approval for a  
9 project shall be allowed a benefit as provided in this program in the amount and  
10 duration provided in this section. A qualified company may receive additional  
11 periods for subsequent new jobs at the same facility after the full initial period  
12 if the minimum thresholds are met as set forth in sections 620.1875 to  
13 620.1890. There is no limit on the number of periods a qualified company may  
14 participate in the program, as long as the minimum thresholds are achieved and  
15 the qualified company provides the department with the required reporting and  
16 is in proper compliance for this program or other state programs. A qualified  
17 company may elect to file a notice of intent to start a new project period  
18 concurrent with an existing project period if the minimum thresholds are  
19 achieved and the qualified company provides the department with the required  
20 reporting and is in proper compliance for this program and other state programs;  
21 however, the qualified company may not receive any further benefit under the  
22 original approval for jobs created after the date of the new notice of intent, and  
23 any jobs created before the new notice of intent may not be included as new jobs  
24 for the purpose of benefit calculation in relation to the new approval. When a

25 qualified company has filed and received approval of a notice of intent and  
26 subsequently files another notice of intent, the department shall apply the  
27 definition of project facility under subdivision (19) of section 620.1878 to the new  
28 notice of intent as well as all previously approved notices of intent and shall  
29 determine the application of the definitions of new job, new payroll, project  
30 facility base employment, and project facility base payroll accordingly.

31           2. Notwithstanding any provision of law to the contrary, any qualified  
32 company that is awarded benefits under this program may not simultaneously  
33 receive tax credits or exemptions under sections 135.100 to 135.150, sections  
34 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the  
35 same project facility. The benefits available to the company under any other  
36 state programs for which the company is eligible and which utilize withholding  
37 tax from the new jobs of the company must first be credited to the other state  
38 program before the withholding retention level applicable under the Missouri  
39 quality jobs act will begin to accrue. These other state programs include, but are  
40 not limited to, the new jobs training program under sections 178.892 to 178.896,  
41 RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the  
42 real property tax increment allocation redevelopment act, sections 99.800 to  
43 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under  
44 sections 99.915 to 99.980, RSMo. If any qualified company also participates in  
45 the new jobs training program in sections 178.892 to 178.896, RSMo, the company  
46 shall retain no withholding tax, but the department shall issue a refundable tax  
47 credit for the full amount of benefit allowed under this subdivision. The calendar  
48 year annual maximum amount of tax credits which may be issued to a qualifying  
49 company that also participates in the new job training program shall be increased  
50 by an amount equivalent to the withholding tax retained by that company under  
51 the new jobs training program. However, if the combined benefits of the quality  
52 jobs program and the new jobs training program exceed the projected state  
53 benefit of the project, as determined by the department of economic development  
54 through a cost-benefit analysis, the increase in the maximum tax credits shall be  
55 limited to the amount that would not cause the combined benefits to exceed the  
56 projected state benefit. Any taxpayer who is awarded benefits under this  
57 program who knowingly hires individuals who are not allowed to work legally in  
58 the United States shall immediately forfeit such benefits and shall repay the  
59 state an amount equal to any state tax credits already redeemed and any  
60 withholding taxes already retained.

61 3. The types of projects and the amount of benefits to be provided are:

62 (1) Small and expanding business projects: in exchange for the  
63 consideration provided by the new tax revenues and other economic stimuli that  
64 will be generated by the new jobs created by the program, a qualified company  
65 may retain an amount equal to the withholding tax as calculated under  
66 subdivision (33) of section 620.1878 from the new jobs that would otherwise be  
67 withheld and remitted by the qualified company under the provisions of sections  
68 143.191 to 143.265, RSMo, for a period of three years from the date the required  
69 number of new jobs were created if the average wage of the new payroll equals  
70 or exceeds the county average wage or for a period of five years from the date the  
71 required number of new jobs were created if the average wage of the new payroll  
72 equals or exceeds one hundred twenty percent of the county average wage. **The**  
73 **director may, upon a finding of economic benefit to the state, increase**  
74 **the withholding retention amount provided under this subdivision if**  
75 **the qualified company is a Missouri business by an amount not to**  
76 **exceed two percent for every continuous five year period such company**  
77 **has been a Missouri business up to a total increase of ten percent;**

78 (2) Technology business projects: in exchange for the consideration  
79 provided by the new tax revenues and other economic stimuli that will be  
80 generated by the new jobs created by the program, a qualified company may  
81 retain an amount equal to a maximum of five percent of new payroll for a period  
82 of five years from the date the required number of jobs were created from the  
83 withholding tax of the new jobs that would otherwise be withheld and remitted  
84 by the qualified company under the provisions of sections 143.191 to 143.265,  
85 RSMo, if the average wage of the new payroll equals or exceeds the county  
86 average wage. An additional one-half percent of new payroll may be added to the  
87 five percent maximum if the average wage of the new payroll in any year exceeds  
88 one hundred twenty percent of the county average wage in the county in which  
89 the project facility is located, plus an additional one-half percent of new payroll  
90 may be added if the average wage of the new payroll in any year exceeds one  
91 hundred forty percent of the average wage in the county in which the project  
92 facility is located. **The director may, upon a finding of economic benefit**  
93 **to the state, increase the new payroll retention provided under this**  
94 **subdivision if the qualified company is a Missouri business by an**  
95 **amount not to exceed two percent for every continuous five year period**  
96 **such company has been a Missouri business up to a total increase of ten**

97 **percent.** The department shall issue a refundable tax credit for any difference  
98 between the amount of benefit allowed under this subdivision and the amount of  
99 withholding tax retained by the company, in the event the withholding tax is not  
100 sufficient to provide the entire amount of benefit due to the qualified company  
101 under this subdivision;

102 (3) High impact projects: in exchange for the consideration provided by  
103 the new tax revenues and other economic stimuli that will be generated by the  
104 new jobs created by the program, a qualified company may retain an amount from  
105 the withholding tax of the new jobs that would otherwise be withheld and  
106 remitted by the qualified company under the provisions of sections 143.191 to  
107 143.265, RSMo, equal to three percent of new payroll for a period of five years  
108 from the date the required number of jobs were created if the average wage of the  
109 new payroll equals or exceeds the county average wage of the county in which the  
110 project facility is located. For high-impact projects in a facility located within two  
111 adjacent counties, the new payroll shall equal or exceed the higher county  
112 average wage of the adjacent counties. The percentage of payroll allowed under  
113 this subdivision shall be three and one-half percent of new payroll if the average  
114 wage of the new payroll in any year exceeds one hundred twenty percent of the  
115 county average wage in the county in which the project facility is located. The  
116 percentage of payroll allowed under this subdivision shall be four percent of new  
117 payroll if the average wage of the new payroll in any year exceeds one hundred  
118 forty percent of the county average wage in the county in which the project  
119 facility is located. An additional one percent of new payroll may be added to  
120 these percentages if local incentives equal between ten percent and twenty-four  
121 percent of the new direct local revenue; an additional two percent of new payroll  
122 is added to these percentages if the local incentives equal between twenty-five  
123 percent and forty-nine percent of the new direct local revenue; or an additional  
124 three percent of payroll is added to these percentages if the local incentives equal  
125 fifty percent or more of the new direct local revenue. **The director may, upon**  
126 **a finding of economic benefit to the state, increase the percentage of**  
127 **payroll allowed under this subdivision for qualified companies which**  
128 **are Missouri businesses by an amount not to exceed two percent for**  
129 **every continuous five year period such company has been a Missouri**  
130 **business, up to a total increase of ten percent.** The department shall issue  
131 a refundable tax credit for any difference between the amount of benefit allowed  
132 under this subdivision and the amount of withholding tax retained by the

133 company, in the event the withholding tax is not sufficient to provide the entire  
134 amount of benefit due to the qualified company under this subdivision;

135 (4) Job retention projects: a qualified company may receive a tax credit  
136 for the retention of jobs in this state, provided the qualified company and the  
137 project meets all of the following conditions:

138 (a) For each of the twenty-four months preceding the year in which  
139 application for the program is made the qualified company must have maintained  
140 at least one thousand full-time employees at the employer's site in the state at  
141 which the jobs are based, and the average wage of such employees must meet or  
142 exceed the county average wage;

143 (b) The qualified company retained at the project facility the level of  
144 full-time employees that existed in the taxable year immediately preceding the  
145 year in which application for the program is made;

146 (c) The qualified company is considered to have a significant statewide  
147 effect on the economy, and has been determined to represent a substantial risk  
148 of relocation from the state by the quality jobs advisory task force established in  
149 section 620.1887; provided, however, until such time as the initial at-large  
150 members of the quality jobs advisory task force are appointed, this determination  
151 shall be made by the director of the department of economic development;

152 (d) The qualified company in the project facility will cause to be invested  
153 a minimum of seventy million dollars in new investment prior to the end of two  
154 years or will cause to be invested a minimum of thirty million dollars in new  
155 investment prior to the end of two years and maintain an annual payroll of at  
156 least seventy million dollars during each of the years for which a credit is  
157 claimed; and

158 (e) The local taxing entities shall provide local incentives of at least fifty  
159 percent of the new direct local revenues created by the project over a ten-year  
160 period. The quality jobs advisory task force may recommend to the department  
161 of economic development that appropriate penalties be applied to the company for  
162 violating the agreement. The amount of the job retention credit granted may be  
163 equal to up to fifty percent of the amount of withholding tax generated by the  
164 full-time jobs at the project facility for a period of five years. The calendar year  
165 annual maximum amount of tax credit that may be issued to any qualified  
166 company for a job retention project or combination of job retention projects shall  
167 be seven hundred fifty thousand dollars per year, but the maximum amount may  
168 be increased up to one million dollars if such action is proposed by the

169 department and approved by the quality jobs advisory task force established in  
170 section 620.1887; provided, however, until such time as the initial at-large  
171 members of the quality jobs advisory task force are appointed, this determination  
172 shall be made by the director of the department of economic development. **The**  
173 **director may, upon a finding of economic benefit to the state, increase**  
174 **the amount of tax credits issued to qualified companies which are**  
175 **Missouri businesses by an amount not to exceed two percent of the**  
176 **amount of withholding tax generated by the full-time jobs at the project**  
177 **facility for each continuous five year period such qualified company**  
178 **has been a Missouri business, up to a total increase of ten percent of**  
179 **the amount of withholding tax generated by the full-time jobs at the**  
180 **project** facility. In considering such a request, the task force shall rely on  
181 economic modeling and other information supplied by the department when  
182 requesting the increased limit on behalf of the job retention project. In no event  
183 shall the total amount of all tax credits issued for the entire job retention  
184 program under this subdivision exceed three million dollars  
185 annually. Notwithstanding the above, no tax credits shall be issued for job  
186 retention projects approved by the department after August 30, 2013;

187 (5) Small business job retention and flood survivor relief: a qualified  
188 company may receive a tax credit under sections 620.1875 to 620.1890 for the  
189 retention of jobs and flood survivor relief in this state for each job retained over  
190 a three-year period, provided that:

191 (a) The qualified company did not receive any state or federal benefits,  
192 incentives, or tax relief or abatement in locating its facility in a flood plain;

193 (b) The qualified company and related companies have fewer than one  
194 hundred employees at the time application for the program is made;

195 (c) The average wage of the qualified company's and related companies'  
196 employees must meet or exceed the county average wage;

197 (d) All of the qualified company's and related companies' facilities are  
198 located in this state;

199 (e) The facilities at the primary business site in this state have been  
200 directly damaged by floodwater rising above the level of a five hundred year flood  
201 at least two years, but fewer than eight years, prior to the time application is  
202 made;

203 (f) The qualified company made significant efforts to protect the facilities  
204 prior to any impending danger from rising floodwaters;

205 (g) For each year it receives tax credits under sections 620.1875 to  
206 620.1890, the qualified company and related companies retained, at the  
207 company's facilities in this state, at least the level of full-time, year-round  
208 employees that existed in the taxable year immediately preceding the year in  
209 which application for the program is made; and

210 (h) In the years it receives tax credits under sections 620.1875 to  
211 620.1890, the company cumulatively invests at least two million dollars in capital  
212 improvements in facilities and equipment located at such facilities that are not  
213 located within a five hundred year flood plain as designated by the Federal  
214 Emergency Management Agency, and amended from time to time. The amount  
215 of the small business job retention and flood survivor relief credit granted may  
216 be equal to up to one hundred percent of the amount of withholding tax generated  
217 by the full-time jobs at the project facility for a period of three years. The  
218 calendar year annual maximum amount of tax credit that may be issued to any  
219 qualified company for a small business job retention and survivor relief project  
220 shall be two hundred fifty thousand dollars per year, but the maximum amount  
221 may be increased up to five hundred thousand dollars if such action is proposed  
222 by the department and approved by the quality jobs advisory task force  
223 established in section 620.1887. In considering such a request, the task force  
224 shall rely on economic modeling and other information supplied by the  
225 department when requesting an increase in the limit on behalf of the small  
226 business job retention and flood survivor relief project. In no event shall the total  
227 amount of all tax credits issued for the entire small business job retention and  
228 flood survivor relief program under this subdivision exceed five hundred thousand  
229 dollars annually. Notwithstanding the provisions of this subdivision to the  
230 contrary, no tax credits shall be issued for small business job retention and flood  
231 survivor relief projects approved by the department after August 30, 2010.

232 4. The qualified company shall provide an annual report of the number  
233 of jobs and such other information as may be required by the department to  
234 document the basis for the benefits of this program. The department may  
235 withhold the approval of any benefits until it is satisfied that proper  
236 documentation has been provided, and shall reduce the benefits to reflect any  
237 reduction in full-time employees or new payroll. Upon approval by the  
238 department, the qualified company may begin the retention of the withholding  
239 taxes when it reaches the minimum number of new jobs and the average wage  
240 exceeds the county average wage. Tax credits, if any, may be issued upon

241 satisfaction by the department that the qualified company has exceeded the  
242 county average wage and the minimum number of new jobs. In such annual  
243 report, if the average wage is below the county average wage, the qualified  
244 company has not maintained the employee insurance as required, or if the  
245 number of new jobs is below the minimum, the qualified company shall not  
246 receive tax credits or retain the withholding tax for the balance of the benefit  
247 period. In the case of a qualified company that initially filed a notice of intent  
248 and received an approval from the department for high-impact benefits and the  
249 minimum number of new jobs in an annual report is below the minimum for  
250 high-impact projects, the company shall not receive tax credits for the balance of  
251 the benefit period but may continue to retain the withholding taxes if it otherwise  
252 meets the requirements of a small and expanding business under this program.

253         5. The maximum calendar year annual tax credits issued for the entire  
254 program shall not exceed eighty million dollars. Notwithstanding any provision  
255 of law to the contrary, the maximum annual tax credits authorized under section  
256 135.535, RSMo, are hereby reduced from ten million dollars to eight million  
257 dollars, with the balance of two million dollars transferred to this  
258 program. There shall be no limit on the amount of withholding taxes that may  
259 be retained by approved companies under this program.

260         6. The department shall allocate the annual tax credits based on the date  
261 of the approval, reserving such tax credits based on the department's best  
262 estimate of new jobs and new payroll of the project, and the other factors in the  
263 determination of benefits of this program. However, the annual issuance of tax  
264 credits is subject to the annual verification of the actual new payroll. The  
265 allocation of tax credits for the period assigned to a project shall expire if, within  
266 two years from the date of commencement of operations, or approval if applicable,  
267 the minimum thresholds have not been achieved. The qualified company may  
268 retain authorized amounts from the withholding tax under this section once the  
269 minimum new jobs thresholds are met for the duration of the project period. No  
270 benefits shall be provided under this program until the qualified company meets  
271 the minimum new jobs thresholds. In the event the qualified company does not  
272 meet the minimum new job threshold, the qualified company may submit a new  
273 notice of intent or the department may provide a new approval for a new project  
274 of the qualified company at the project facility or other facilities.

275         7. For a qualified company with flow-through tax treatment to its  
276 members, partners, or shareholders, the tax credit shall be allowed to members,

277 partners, or shareholders in proportion to their share of ownership on the last  
278 day of the qualified company's tax period.

279 8. Tax credits may be claimed against taxes otherwise imposed by  
280 chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed  
281 within one year of the close of the taxable year for which they were issued, except  
282 as provided under subdivision (4) of subsection 3 of this section.

283 9. Tax credits authorized by this section may be transferred, sold, or  
284 assigned by filing a notarized endorsement thereof with the department that  
285 names the transferee, the amount of tax credit transferred, and the value received  
286 for the credit, as well as any other information reasonably requested by the  
287 department.

288 10. Prior to the issuance of tax credits, the department shall verify  
289 through the department of revenue, or any other state department, that the tax  
290 credit applicant does not owe any delinquent income, sales, or use tax or interest  
291 or penalties on such taxes, or any delinquent fees or assessments levied by any  
292 state department and through the department of insurance, financial institutions  
293 and professional registration that the applicant does not owe any delinquent  
294 insurance taxes. Such delinquency shall not affect the authorization of the  
295 application for such tax credits, except that at issuance credits shall be first  
296 applied to the delinquency and any amount issued shall be reduced by the  
297 applicant's tax delinquency. If the department of revenue or the department of  
298 insurance, financial institutions and professional registration, or any other state  
299 department, concludes that a taxpayer is delinquent after June fifteenth but  
300 before July first of any year and the application of tax credits to such delinquency  
301 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall  
302 be granted thirty days to satisfy the deficiency in which interest, penalties, and  
303 additions to tax shall be tolled. After applying all available credits toward a tax  
304 delinquency, the administering agency shall notify the appropriate department  
305 and that department shall update the amount of outstanding delinquent tax owed  
306 by the applicant. If any credits remain after satisfying all insurance, income,  
307 sales, and use tax delinquencies, the remaining credits shall be issued to the  
308 applicant, subject to the restrictions of other provisions of law.

309 11. Except as provided under subdivision (4) of subsection 3 of this  
310 section, the director of revenue shall issue a refund to the qualified company to  
311 the extent that the amount of credits allowed in this section exceeds the amount  
312 of the qualified company's income tax.

313           12. An employee of a qualified company will receive full credit for the  
314 amount of tax withheld as provided in section 143.211, RSMo.

315           13. If any provision of sections 620.1875 to 620.1890 or application thereof  
316 to any person or circumstance is held invalid, the invalidity shall not affect other  
317 provisions or application of these sections which can be given effect without the  
318 invalid provisions or application, and to this end, the provisions of sections  
319 620.1875 to 620.1890 are hereby declared severable.

✓  
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